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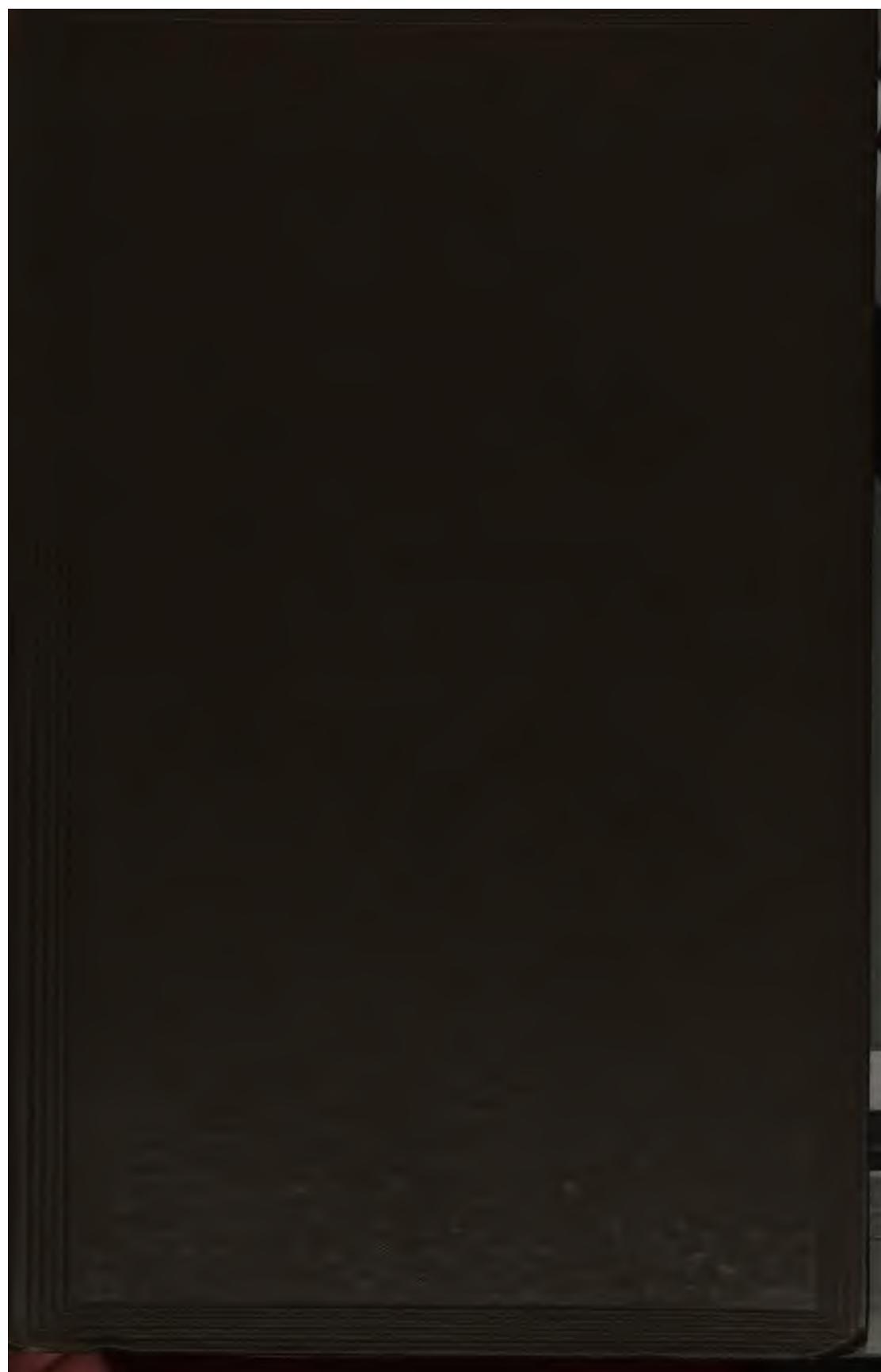
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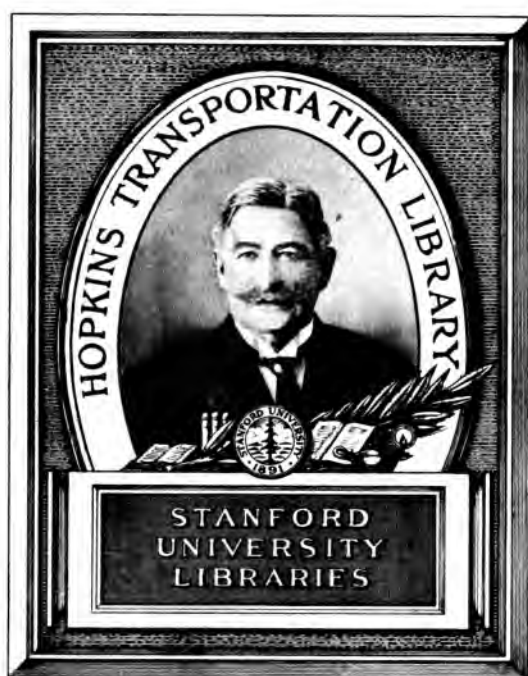
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PACIFIC BLOCKADE

BY

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PREFACE

WHILE much has been written and said of late years, and rightly so, with regard to arbitration as a means of settling international disputes, little notice has been taken of the subject of pacific blockade. And yet during the last eighty years, pacific blockades have been the means of bringing a number of such disputes to a peaceful conclusion.

It is strange that although Great Britain has been, perhaps more than any other nation, responsible for the development of the practice, there is no work in the English language dealing with it at any length. It was with a view to remedying this omission that this work was undertaken. The materials for it had to be collected in the odd times that a somewhat scant amount of leisure afforded during the last three years. If, therefore, the following pages show any lack of proportion or arrangement the author trusts the long period over which their compilation has necessarily extended will be accepted as an excuse.

That more and more use will be made of pacific blockade in the future can scarcely be doubted, but the rules for its proper conduct must be determined and generally accepted before it can attain its maximum of utility. The author therefore ventures to hope that the detailed examination of the method in which it has been conducted in the past which he has endeavoured to make in this work will not be without some value in determining its position in the sphere of International Law. Particular attention may, perhaps, be called to the accounts of the blockades of Nicaragua in 1842 and 1844, and of Greece in 1850. The first two contain a considerable amount of matter hitherto unpublished, while in the last the author has endeavoured to controvert the current and erroneous accounts of the

operation. 'The author has found considerable difficulty in the choice of a word to express the position of states which were neither blockading nor blockaded. The frequent necessity for the mention of such states made the use of a long phrase undesirable, while the term 'neutral', with its connotation of the existence of war, was obviously unsuitable. In the circumstances he has fallen back on the use of the somewhat barbarous expression 'third states'.

He hopes that the classified bibliography, which has been made as exhaustive as possible, will prove of use to any future students of the subject.

His thanks are due to Mr. Maurice Gwyer, of All Souls College and of the Inner Temple, for his assistance in revising the work for the press.

CONTENTS

	PAGE
BIBLIOGRAPHY	7

PART I

CHAPTER	
I. THE NATURE OF PACIFIC BLOCKADE AND ITS ATTENDANT PROBLEMS	11
II. THE CLASSIFICATION OF PACIFIC BLOCKADES	17
III. THE LEGALITY OF THE PRACTICE	21
IV. NOTICE	32
V. TREATMENT OF THE SHIPS OF THE BLOCKADED STATE	40
VI. TREATMENT OF THE SHIPS OF STATES UNCONNECTED WITH THE BLOCKADE	51
VII. CONCLUSIONS	70

PART II

HISTORICAL ACCOUNTS OF THE VARIOUS BLOCKADES

GREECE, 1827.	73
PORTUGAL, 1831	77
THE NETHERLANDS, 1832-3	80
CARTHAGENA, 1834	82
NEW GRANADA, 1837	83
MEXICO, 1838	85
THE ARGENTINE CONFEDERATION, 1838-40	88
SAN SALVADOR, 1842	91
NICARAGUA, 1842	92
NICARAGUA, 1844	95
THE ARGENTINE CONFEDERATION, 1845-50	98
GREECE, 1850	105

	PAGE
GAETA AND MESSINA, 1860-1	114
BRAZIL, 1862-3	117
BOLIVIA, 1879	120
FORMOSA, 1884-5	122
GREECE, 1886	126
ZANZIBAR, 1888-9	130
SIAM, 1893	137
CRETE, 1897	142
VENEZUELA, 1902-3	149

APPENDIX

NOTICES RELATING TO—

NETHERLANDS, 1832-3	158
NEW GRANADA, 1837	158
MEXICO, 1838	159
THE ARGENTINE CONFEDERATION, 1838-40	161
NICARAGUA, 1842.	161
NICARAGUA, 1844.	162
THE ARGENTINE CONFEDERATION, 1845-50	166
GREECE, 1850	167
GAETA AND MESSINA, 1860-1	170
FORMOSA, 1884-5	171
GREECE, 1886	173
ZANZIBAR, 1888-9	174
SIAM, 1893	180
CRETE, 1897	182
VENEZUELA, 1902-3	183

BIBLIOGRAPHY

THERE are only three works which deal with the subject of pacific blockade at any length, viz. :—

BARÈS : *Le Blocus Pacifique* (Toulouse, 1898).

DUROCQ : *Représailles en temps de paix ; Blocus Pacifique* (Paris, 1901).

FALCKE : *Die Hauptperiode der sogenannten Friedensblockaden* (Leipzig, 1891).¹

Of these Falcke goes into the greatest detail, but only treats of the pacific blockades up to the year 1850. He also fails to make any general statements as to the theoretical side of the subject, although discussing each blockade separately.

Barès and Ducrocq go into detail far less than Falcke. The former is in places inaccurate and inclined to be biased by a certain amount of animus against Great Britain, but each contains a consideration of the various theoretical views on the subject.

A number of other authors have dealt with the subject, but none of them go into any great detail. The most important are :—

L'ANNUAIRE DE L'INSTITUT DE DROIT INTERNATIONAL for 1887.

BULMERINCQ : 'Le blocus pacifique et ses effets sur la propriété privée,' article in *Le Journal du Droit international privé* for 1884, pp. 569–83.

CALVO : *Le droit international* (Paris, 1896), §§ 1814–59.

FAUCHILLE : *Du blocus maritime* (Paris, 1882), pp. 38–67.

HOLLAND : *Studies in International Law*, pp. 130–50.

OPPENHEIM : *International Law* (London, 1906), vol. ii, §§ 26–49.²

Other works dealing with the subject of pacific blockade generally are :—

ASSENSIO : *Les questions du droit maritime au congrès de Naples*, p. 43.

BLUNTSCHLI : *Das moderne Völkerrecht der civilisierten Staaten* (1872), §§ 506–7.

¹ These three works are cited as Barès, Ducrocq and Falcke respectively.

² These six works are cited as *Annuaire*, *Bulmerincq*, *Calvo*, *Fauchille*, *Holland* and *Oppenheim* respectively.

- BONFILS : Manuel de droit international public (4th edition by Fauchille, 1905), §§ 986-94.
- BULMERINCQ : in Holtzendorff : Handbuch des Völkerrechts (1885-9), vol. iv, pp. 116 et seq.
- DE BURGH : The Elements of Maritime International Law (1868), pp. 120-1.
- CALVO : Dictionnaire de droit international (1885), t. i, p. 102.
- CARNAZZA-AMAN : Traité de droit international public, t. ii, p. 622.
- CAUCHY : Le droit maritime international (1862), t. ii, pp. 426-8.
- DEANE : The Law of Blockade (1870), pp. 45-8.
- DESPAGNET : Cours de droit international public (1894), pp. 517 et seq.
- FERGUSON : Manual of International Law, vol. ii, pp. 240-1.
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- FIORE : Nouveau droit international public (2nd edition, by Antoine, 1885), t. ii, No. 1231.
- FUNCK-BRENTANO ET SOREL : Précis du droit des gens (1887), book iii, p. 408.
- GEFFCKEN : 7th German and 4th French edition of Heffter.
- GESSNER : Le droit des neutres sur mer, 1st edition, pp. 215-23.
- GLASS : Proceedings of the United States Naval Institute, vol. xi, p. 458.
- HALL : International Law, 4th edition, § 121 ; 5th edition, pp. 371-6.
- HAUTEFEUILLE : Des droits et des devoirs des nations neutres en temps de guerre, t. ii, pp. 259-74 et seq.
- HEFFTER : Das europäische Völkerrecht der Gegenwart (7th edition, by Geffcken), 1882, pp. 237-8.
- HEFFTER : Le droit international de l'Europe (3rd French edition, by Bergson, 1873), pp. 215-6.
- LAWRENCE : The Principles of International Law (1900), § 159, pp. 670-1.
- LIBBRECHT : La guerre maritime, pp. 114 et seq.
- F. DE MARTENS : Völkerrecht (1883), t. ii, p. 105.
- F. DE MARTENS : Traité de droit international (French edition by Leo, 1887), t. iii, pp. 165-76.

- DE NEGRIN : *Tratado elemental de derecho internacional marítimo*, p. 262.
- VON NEUMANN : *Grundriss des heutigen europäischen Völkerrechts*, p. 26.
- VON NEUMANN : *Éléments du droit des gens moderne*, 3rd edition, p. 142.
- NYS : *La guerre maritime* (1881), p. 69.
- OPPENHEIM : *System des Völkerrechts*, p. 255.
- PERELS : *Das internationale öffentliche Seerecht der Gegenwart* (1882), pp. 167-9.
- PILLET : *Les lois actuelles de la guerre*, p. 143.
- PISTOYE ET DUVERDY : *Traité des prises maritimes* (1855), t. i, pp. 376 et seq.
- PRADIER-FODÉRE : *Traité de droit international public*, 7 vols. (1885-97), t. v, No. 2483-9 ; t. vi, No. 2648.
- RISLEY : *Law of War* (1897), pp. 62-4.
- RIVIER : *Principes du droit des gens* (1896), t. ii, pp. 198-9.
- RIVIER : *Lehrbuch des Völkerrechts* (1889), pp. 358 et seq.
- ROLIN : *La Revue de Droit International et de Législation comparée* for 1875, pp. 611-2.
- SMITH, F. E. : *International Law* (1900), pp. 91-2.
- SNOW : *Cases and Opinions of International Law* (1893), p. 248.
- TAYLOR : *A Treatise of International Public Law* (1901), § 444.
- TESTA : *Le droit public international maritime*, p. 229.
- ULLMANN : *Völkerrecht* (1898), § 138.
- WESTLAKE : *International Law, Part II, 'War'* (1907), pp. 11-18.
- WHARTON : *A Digest of the International Law of the United States*, vol. iii, § 364.
- WHEATON : *Elements of International Law*, 8th (Dana's) edition, 1866, pp. 687-8.
- WHEATON : *International Law* (4th edition, by J. B. Attlay, 1904), §§ 293 et seq.
- WOOLSEY : *Introduction to Study of International Law*, 4th edition, pp. 442-4.
- WURM : *Staatslexicon*, t. xii, p. 132.

A brief bibliography of the various books and documents dealing with the blockades separately is given as a footnote to the title of each blockade in Part II. The works are divided into three classes : (a) the most important documents dealing directly with the blockade, such as the State Papers ; (b) the less

important works dealing directly with the blockade ; (c) works dealing incidentally with the blockade.

The following abbreviations are used in citing the following classes of documents :—B. S. P. : British State Papers ; P. R. O. No. — : Bundle — of unpublished documents in the Public Record Office, London ; *L. G.* : *London Gazette*.

In the Appendix will be found the text of the notices which have been given of the various blockades. Every endeavour has been made to make this collection as complete as possible, but some gaps are unavoidable.

PART I

CHAPTER I

THE NATURE OF PACIFIC BLOCKADE AND ITS ATTENDANT PROBLEMS

THE nature of an ordinary blockade in time of war is well known. Ships of war of one of the belligerents take up positions in which they can prevent all traffic by sea to and from certain of the ports or coasts of the other belligerent. The blockading force must be sufficiently powerful to effect its object, and notice must be given to those whose interests are affected, although there are differences of opinion as to the method in which such notice should be given. The object of such a blockade is to cut off a state from its supplies and paralyse its trade and industries, and thus bring to bear a method of coercion which is felt by the great majority of its inhabitants. If vessels endeavour to enter or issue from the blockaded port they may be captured, taken before a prize court, and with their cargo condemned.

But while these rights are allowed to a belligerent he is subjected also to certain disabilities. Thus, he may not make use of the ports and harbours of a neutral state as bases for his fleets: indeed, under the neutrality regulations of some states his vessels may not in general stop more than twenty-four hours in a neutral port, and may only take on board sufficient coal and provisions to enable them to reach the nearest port. These restrictions on the rights of a belligerent and the corresponding duties which they impose on neutrals are a comparatively modern addition to the law of nations. They may be said to have had their origin at the end of the eighteenth century in the declarations of the First Armed Neutrality and the first neutrality law of the United States, while the era of the great Napoleonic wars fostered their rapid growth.

Previously the idea of neutrality was almost non-existent.

Machiavelli, in *The Prince*, had laid down that it was the duty of a sovereign to side with one belligerent or the other when two nations were at war, and that little was to be gained from remaining neutral.

As a matter of fact, belligerents took very little pains to respect any rights that neutrals might have until they were forced to do so by the growth of a new conception of neutrality, and by the fact that the neutral states were becoming strong enough to see that their rights were respected. The gigantic burdens which modern warfare imposes upon a belligerent state have caused it to become a far more important question to consider whether the advantages to be derived from a war will counterbalance the disabilities which it necessarily entails. Especially is this the case when there is a great disparity in strength between the states that are parties to a dispute and the controversy is over some matter of little moment. Some of the smaller states in the administration of their affairs do not always conform to the ordinary usages of International Law, and when called upon to make redress, defiantly refuse to do so, relying on their very weakness to protect them from any serious harm. In circumstances such as these it is often hardly worth while for a powerful state to go to war, and yet some means should exist of bringing the small state to reason and compelling it to act in accordance with international ideas of righteous dealing. In ordinary municipal matters, if one citizen is injured by another he can obtain redress in the courts of his country, but in disputes between nations there is no superior power to which appeal can be made. All nations are in theory supposed to be on an equality, and if any dispute arises they have to settle it between themselves, either by diplomatic means or by arbitration, or by some method of compulsion. If it is not desired to go to war, some other method of compulsion¹

¹ Cf. Oppenheim, ii, § 26: 'Compulsive means of settlement of difficulties are measures containing a certain amount of compulsion taken by a state for the purpose of making another state consent to such settlement of a difficulty as is required by the former.' Also Hall, *International Law*, 4th ed., p. 302: 'The existence of a right to oppose acts contrary to

must be used, and it is here that the practice of pacific blockade has proved so useful. Pacific blockade has been so called because of the similarity which it presents in certain features to an ordinary warlike blockade. There are, as the contrast in the epithets indicates, considerable differences between the two, but the main idea, the coercion of a state by interference with its commerce and supplies, is the same. Pacific blockade has been defined in the following terms: 'Le blocus pacifique n'est autre chose que la fermeture des ports ou de districts particuliers de la côte d'un pays, en dehors du cas de guerre déclarée et dans le but d'empêcher les relations commerciales maritimes.'¹ To take an example: In June 1861 a British vessel was wrecked on the coast of Brazil; the British consul, hearing of it some time afterwards, found on inquiry that much of the cargo that had come ashore had been broken into and stolen, and that there was a strong probability that the crew had been murdered. Repeated applications for investigation and a payment by way of compensation were made to the Brazilian Government, but peremptorily refused. It would have been strange if Great Britain had been compelled to go to war with Brazil to obtain the necessary compensation, and her squadrons all over the world to be treated as belligerent by all other states although taking no active part whatever in the operations. It would also have been strange if Great Britain had been compelled to forgo her just claim for compensation because she was unwilling for so trifling a matter to inflict upon her commerce the great inconvenience which a state of war would have involved. But a way out of the difficulty was found. The British squadron in Brazilian waters blockaded Rio for a period of seven days, at the end of which time the Brazilian Government gave in.²

law, and to use force for the purpose when infractions are sufficiently serious, is a necessary condition of an efficient International Law.'

¹ *Annuaire*, p. 277. Cf. Ducrocq, p. 59: 'Le blocus pacifique . . . consiste à empêcher, au moyen de la force armée, toute communication avec les côtes et les ports d'un pays auquel on n'a pas déclaré la guerre.'

² 'Correspondence respecting the plunder of the wreck of the British

The same method of compulsion has also been used by the states composing the Concert of Europe to give effect to their policy in the Near East. Thus in 1886 the powers of Great Britain, Austria-Hungary, Russia, Italy and Germany blockaded the coasts of Greece to prevent that country going to war with Turkey.¹

In neither of the above instances was it considered that a state of war existed between the respective states. Hence operations such as were then conducted have come to be known by the term 'pacific' blockade, to distinguish them from the ordinary operation of war, which bears the name of blockade simply.

The first use of this new weapon in the international armoury occurred in 1827, when Great Britain, France and Russia combined to blockade the coasts of what is now the kingdom of Greece, to put an end to the savage war of desolation and extermination which was then being waged by the Turks. But although since that time it has been employed by various powers in about a score of cases, the exact position which it occupies in International Law and the conditions under which it may be exercised have not yet been definitely and universally determined. The circumstances in which it has been employed have been so varied that there has been little uniformity of practice, and hence there is considerable difficulty in defining with any accuracy the rules by which its exercise ought to be governed. It is true that in 1887 the Institute of International Law, after a discussion of this subject, laid down certain propositions with regard to it;² but although the views of such an eminent body of international jurists must always carry great weight, yet, on this occasion, they hardly seem to have paid sufficient attention to the practical difficulties of the subject, and, as a result, their declaration, while on the face of it appearing to be a deduc-

barque *Prince of Wales* on the coast of Brazil in June 1861; and respecting the ill-treatment of three officers of H.M.S. *Forte* by the Brazilian police in June 1862.' B. S. P. 1863.

¹ B. S. P. Greece, No. 4 (1886).

² *Annuaire*, pp. 300-1.

tion from the acknowledged rules of International Law, is not in accordance with the practice which, in the majority of cases, has attended pacific blockades in the past. As a matter of fact the rules on the subject are in the course of formation, and it is impossible to say decisively that this or that is right or wrong. Their final shape will undoubtedly be determined by a compromise of the conflicting interests concerned, just as the various rules relating to war and neutrality have been determined in the past. Meanwhile, it is the province of the jurist who wishes to advance the solution of what is to-day undoubtedly one of the most open questions of International Law to investigate the methods which have been used in the past, and ascertain with accuracy the facts upon which any of his conclusions must be based, and, when this is done, to define the problems which await solution and endeavour as far as possible to state clearly the arguments on each side.

The question of pacific blockade involves many problems which are still unanswered. It has first to be determined whether there can be such an operation as a *pacific* blockade at all, or whether the term is but a misnomer and a cloak for an illegal form of coercion. Next, supposing it to be decided that a pacific blockade is legally possible, the method of conducting it must be considered; whether notice is necessary or not, and, if so, to whom; whether the blockading force need be 'effective', and whether a blockade must extend to all kinds of merchandise or may be confined to particular varieties. Further, there is the extremely important question whether the blockade may or may not extend to the ships of third powers, and, if so, under what conditions: and connected with this is the further question as to what may be done with the vessels seized. May they be confiscated or merely detained, and, if the latter, is the captor responsible for any damage caused by the detention?

In the following chapters an endeavour will be made to investigate the problems indicated above, and to arrive, so far as is possible in a subject still perhaps in the transitional stage, at some definite conclusions with regard to

them. In Part II an account will be given of the circumstances which have preceded the various pacific blockades in the past and the manner in which they were actually carried out. Although this part of the work may seem to be beyond the province of the jurist and to usurp the functions of the historian, yet it is difficult and almost impossible without an impartial review of all essential facts to ascertain the general principles which govern, or ought, it is submitted, to govern, the practice and conduct of a pacific blockade.

CHAPTER II

CLASSIFICATION OF PACIFIC BLOCKADES

ALTHOUGH only about twenty instances of pacific blockade have as yet occurred, the circumstances attending them show a considerable variety, and accordingly any attempt at classification is beset with difficulty. Many of the blockades have had little more in common than the fact that they were instituted at a time when the peaceful relations of the states concerned had not been broken off. It is difficult, for example, to find many points of similarity between the blockade of Gaeta and Messina in 1860-1 by the ships of Piedmont-Sardinia, and that of Brazil by Great Britain a couple of years later, or between the blockade of Zanzibar by Great Britain, Germany and Italy in 1888-9 and that of Siam by France in 1893.

Still one attempt at classification has been made.¹ Professor Holland divides pacific blockades into three classes, according to the object with which they are entered into, and distinguishes them 'as aiming respectively at Reprisal, Intervention, and Suppression', i.e. 'instituted in order to obtain redress for an alleged wrong, or to enforce compliance with a line of policy which commends itself to the blockading power, or to quell usurped authority in the state's own territory.'² It is undoubtedly true that it is possible to trace these three motives as actuating the various powers who have from time to time instituted pacific blockades; but the different motives from which the blockades are undertaken do not of themselves determine any differences

¹ Falccke, in his table of contents, divides the cases up to 1850 under (1) blockades, (2) reprisals, and (3) intervention, but does not appear to draw any distinction. Bulmerincq (p. 573) similarly classifies the blockades he mentions as (1) illegitimate interventions in internal affairs, (2) illegal reprisals, (3) blockade against one power for the wrongdoing of a third, (4) blockade in the blockading power's own interests.

² Holland, pp. 132 and 140.

in the procedure. In the same way the conduct of a war is not affected by the fact that from a moral standpoint its inception was just or unjust.¹ A legal definition has nothing to do with ethical theory. Besides, in all three cases the determining motive is really the same—to impose the will of the blockading power on that blockaded without recourse to war.

Further, it is more than doubtful whether the examples cited in the third of Professor Holland's classes really deserve the name of pacific blockades at all.² The institution of a blockade implies two distinct powers, the one blockading and the other blockaded. If the port which is said to be blockaded belongs in fact to the state whose ships are blockading it, the operation is really nothing more or less than the closing of the port to maritime traffic by administrative action supported by the state forces. A state is master over its own territory and can determine to which of its ports its own vessels and those of foreign nations shall be admitted, and if it declares that certain ports are not to be open for ships it is at liberty to support its decree in its own waters by force.³ If other nations consider that such a declaration is more or less a sham, because the state can no longer maintain its authority in its own territory, their remedy is obvious. They can recognize the rebellious subjects of the blockading state as a belligerent community, as was done in the case of the Southern States in the American Civil War, whereupon the blockade would for all intents and purposes be treated as an operation of war and the recognizing states as neutrals. It is, however, difficult to see

¹ For a criticism disagreeing with this classification vide Oppenheim, ii, § 44.

² The blockade of the Southern States during the American Civil War was undoubtedly an operation of war. The remaining two cases, viz, the Circassian insurrection in 1836 (as to which vide Wheaton, *Elements of International Law*, 8th (Dana's) edition, 1866, p. 688 n.) and Crete in 1866-8, were really nothing more than cases of the administrative shutting of certain ports against its own subjects by the territorial sovereign.

³ Cf. Oppenheim, ii, § 44 : 'A blockade instituted by a state against such portions of its own territory as are in revolt is not a blockade for the purpose of settling international difficulties.' It is 'a matter of internal police'.

CH. II CLASSIFICATION OF PACIFIC BLOCKADES 19

any intermediate stage to which the term pacific blockade could rightly be applied. Either the so-called blockade is a perfectly legitimate exercise of a state's sovereignty over its own territory, or it is an operation of war involving the usual consequences.

Although, therefore, pacific blockades can scarcely be classified according to the motives inducing them, it is curious to note that the distinction which Professor Holland draws between the first two of his classes corresponds with another distinction of some importance. In the majority of cases where reprisals have been the object, the blockade has been instituted by a single state, while in cases of intervention several powers have taken part. This is not, however, by any means necessarily the case. Several states may combine to seek reprisals by way of pacific blockade, as did Great Britain, Germany and Italy against Venezuela in 1902-3, while a single state may intervene by the same method in the affairs of another, as, for example, happened in the case of the blockade of Gaeta and Messina by Piedmont-Sardinia in 1860-1.¹

The so-called Concert of Europe is a combination of the six powers Great Britain, Germany, France, Italy, Austria-Hungary and Russia, which has been formed to deal with Turkish affairs in the interest of the peace of Europe. It has gradually assumed the right of dictation, and other states are apparently willing to accept its hegemony² and fall in with its suggestions. The course on which it decides in any particular instance may therefore be regarded as laid down, either expressly or impliedly, by the whole body of civilized states. In these circumstances a somewhat wider latitude might well be conceded in the case of a pacific blockade instituted by the Great Powers, or even by some of them, as 'a measure of police'³ to guard the peace of Europe, than in one which is entered upon by a single power. Thus a difference might be made in the treat-

¹ This blockade may, however, be considered a measure of war.

² The term is used by Lawrence, *Essays on Disputed Questions in International Law*, and *Principles of International Law* (1896), pp. 65-7.

³ Lord Curzon, March 25, 1897 (*Hansard*, 4th series, vol. xlvii, col. 1311).

ment of the vessels of third states, their seizure being allowed when several powers are blockading, but not otherwise.¹

To draw such a distinction, however, would, of course, be a departure from the view of Grotius and other jurists as to the equality of states ; but it must not be forgotten ' that International Law is no cast-iron scheme into which facts must be fitted at any cost, but rather a body of rational principles capable of adjustment to new combinations of circumstances ', and that its rules are derived from the actual practice of modern states and are not to be deduced from an archaic system or theory which takes no account of present-day conditions.

¹ Cf. Calvo, § 1859, and Holland, p. 145.

CHAPTER III

THE LEGALITY ¹ OF THE PRACTICE

IN considering whether by the existing rules of International Law the practice of pacific blockade may be justified it is necessary in the first place to draw a distinction between the blockade itself and the incidents with which it is accompanied. The mere fact that some act performed during the continuance of a blockade is illegal (contrary, that is, to accepted practice) does not necessarily render the blockade itself illegal. Again, if it is proved that a pacific blockade can in fact be instituted without a violation of the rules of International Law, that fact would not necessarily legalize all its incidents. This distinction is of importance because many writers ² have pronounced pacific blockade illegal on the ground that the vessels of third states have been seized and confiscated. Thus in 1875 a committee of the members of the Institute of International Law, composed of MM. Bulmerincq, Rolin, Vidari, Westlake and Woolsey, had the following question under consideration: 'Le blocus pacifique constitue-t-il, suivant les règles du droit international actuellement admises, un moyen de contrainte régulier pouvant donner lieu à la saisie et à la confiscation des navires qui tenteraient de le rompre?' The majority gave a negative answer.³ A pacific blockade can be con-

¹ The term 'legal' is used, although not strictly in accordance with Austinian usage, as equivalent to 'in accordance with the rules of International Law'.

² Assensio, *Les questions du droit maritime au congrès de Naples*, p. 43; De Burgh, *The Elements of Maritime International Law* (1868), p. 120; F. de Martens, *Völkerrecht* (1883), t. ii, p. 105; Von Neumann, *Grundriss des heutigen europäischen Völkerrechts*, p. 26. Besides these writers, De Negrin (*Tratado elemental de derecho internacional marítimo*, p. 262), Oppenheim (*System des Völkerrechts*, p. 255), and Wurm (*Staatslexicon*, t. xii, p. 132) are against pacific blockade because they consider that it is inconsistent with the general principles of the liberty of commerce and navigation in time of peace.

³ *Revue de Droit international et de Législation comparée*, t. vii, 1875, pp. 611-2, 'une extension illicite du droit de blocus dans la guerre.'

ducted without any interference whatever with the vessels belonging to third states, as is witnessed by the blockades of Greece in 1850 and 1886, of the Tagus in 1831, the Netherlands in 1832-3 and Brazil in 1862-3. If, therefore, it can be shown that when so conducted a pacific blockade is in accordance with the rules of International Law, the whole practice ought not to be branded as illegal because of the occurrence in some cases of acts alleged to be illegal. Assuming for the moment that it is illegal to meddle with the vessels of third states, the argument of these opponents of pacific blockade might be stated as follows: Because a certain practice has in the past been sometimes accompanied by incidents which are illegal, therefore that practice cannot in any circumstances be legal. Stated in this bald way the fallacy underlying this reasoning is obvious. It follows that the solution of the question whether a pacific blockade is legally possible does not depend on the further question as to what treatment should be accorded to the vessels of third states during such blockade. This latter question will therefore be left for discussion in a subsequent chapter.

Hautefeuille argues that blockade can only exist because of the conquest of an enemy's territory, and that, as conquest can only take place in time of war, a blockade is necessarily an operation of war.¹ But the premiss on which he bases his argument is unsound. Blockade does not exist on account of the conquest of an enemy's territory. In the first place it is somewhat doubtful whether a state has any territorial rights in the waters surrounding its shores. Next, even if it is assumed that territorial rights exist in such waters, it frequently happens that the cruisers of a blockading squadron are stationed outside this maritime zone. To quote one instance, Riga was blockaded by

¹ Hautefeuille, *Des droits et des devoirs des nations neutres en temps de guerre maritime*, 3rd ed., 1868, t. ii, p. 183: 'Le blocus étant le résultat de la conquête d'une partie du territoire ennemi, et, par conséquent, de l'exercice du droit de la guerre, ne peut exister en temps de paix;' and again, p. 273: 'Admettre l'existence du blocus pacifique serait à mes yeux une violation de tous les principes de la loi primitive et secondaire.'

a ship sixty miles away, but this did not in the least affect the efficacy of the blockade.

Other jurists deny the possibility of a blockade being carried on in time of peace. They assert that all acts of force are acts of war, and that the term pacific blockade involves a contradiction in terms. This view of the matter was put forward in 1827 by the Turkish authorities on the occasion of the first use of a pacific blockade, when the Reis Effendi made the well-known statement: 'C'est absolument comme si, cassant la tête d'un homme, je l'assurerais en même temps de mon amitié.'¹ The supporters of this argument include Bonfils,² Calvo,³ Fauchille,⁴ MM. Funck-Brentano et Sorel,⁵ Gessner,⁶ Libbrecht,⁷ F. de Martens,⁸ Nys,⁹ MM. Pistoye et Duverdy¹⁰ and Testa.¹¹

¹ Quoted by Holland, p. 137.

² *Manuel de droit international public* (4th ed., by Fauchille, 1905), § 992: 'Nous pensons . . . que le blocus soi-disant pacifique ne peut se justifier, ni au nom de l'humanité, ni au point de vue du bon sens; ' and § 993: 'Au fond, c'est bel et bien un acte de guerre, un fait d'hostilité.'

³ § 1859: 'Tout d'abord, le blocus pacifique nous semble un acte incontestablement agressif, hostile et portant gravement atteinte aux droits imprescriptibles de tout état indépendant; en un mot, un acte de guerre.'

⁴ p. 38: 'Le blocus ne peut exister qu'en temps de guerre, il ne peut pas y avoir de blocus en temps de paix: les prétendus blocus pacifiques n'existent pas.'

⁵ *Précis du droit des gens* (1887), iii, p. 408: 'Le blocus pacifique . . . constitue, sous quelque forme qu'il soit présenté, un véritable acte de guerre.'

⁶ *Le droit des neutres sur mer* (1st ed., Berlin, 1865), pp. 215-23: 'En effet l'établissement d'un blocus étant l'emploi de la force . . . est un acte d'hostilité qui constitue [l'état] en état de guerre.'

⁷ *La guerre maritime*, pp. 114 et seq.

⁸ *Traité de droit international* (French translation by Leo, 1887), p. 177: 'Nous ne croyons pas que le droit international moderne reconnaisse le blocus pacifique comme un moyen légitime de contrainte dans les relations entre les peuples.'

⁹ *La guerre maritime*, p. 69 (Bruxelles et Leipzig, 1881): 'Le blocus est un acte de guerre. Le terme de blocus pacifique implique ainsi contradiction.'

¹⁰ *Traité des prises maritimes* (1855), t. i, pp. 376 et seq.: 'On n'a pas déclaré la guerre, mais on la fait réellement.'

¹¹ *Le droit public international maritime*, p. 229: 'Ce genre de blocus . . .

Many statesmen, also, could be quoted to somewhat similar effect. Mr. Balfour, for example, speaking in the House of Commons on the subject of the Venezuelan blockade, said, 'I think it is very likely that the United States will think there can be no such thing as a pacific blockade, and I personally take the same view. Evidently a blockade does involve a state of war.'¹ The idea behind this and other similar statements is that the use of force is incompatible with the continuance of a state of peace. Against this must be put the fact that International Law recognizes that embargo, retorsion, and reprisals, which are acts of force, may be carried on during peace. Indeed Bynkershoek says, 'observa represaliis locum non esse nisi in pace.'²

Reprisals are of very ancient origin, the expression occurring in a treaty between France and England in 1360.³ They consist in the violation by one state of the right of another by an act of force in order to induce the latter to give up some line of conduct which is displeasing to the former, or to make reparation for some injury which it has committed.⁴ A good example is afforded by an incident in the time of the Commonwealth. English seamen had suffered various wrongs at the hands of the French, and Cromwell found it impossible to obtain redress. In these circumstances the English fleet was sent out into the Channel and some French merchant vessels were seized. These were sold, the claims of the English seamen satisfied, and the balance, with a strict account of the transaction, sent to the French Government of the day. Many other instances of reprisals might be cited, but the above shows clearly that acts of force within certain limits are permitted by international usage in time of peace, and do not prevent its *ne peut être regardé comme légal . . . Il n'y a donc qu'une seule espèce de blocus.*'

¹ Hansard, 4th series, vol. cxvi, col. 1490, Dec. 17, 1902.

² Bynkershoek, *Quaestiones iuris publici*, i, 1, c. 24.

³ Cited by Ducrocq, p. 9.

⁴ Cf. Oppenheim, ii, § 33: 'Reprisals are otherwise illegal acts performed by a state for the purpose of obtaining justice for an international delinquency by taking the law into its own hands.'

continuance. Admitting this principle, it is difficult, if not impossible, to say that there is any degree of violence which is incompatible with a state of peace,¹ and it therefore follows that the employment of acts of force does not make a pacific blockade incompatible with a state of peace. M. Bulmerincq² sums up the matter in the following passage: 'Que le blocus soit, en règle générale, un acte de guerre, c'est ce que personne ne peut contester, mais il n'a point nécessairement ce caractère. Donc il n'est point vrai que le blocus, parce qu'il est un acte de violence, ne puisse être pratiqué par les nations en paix, car autrement la rétorsion et les représailles devraient être respectivement interdites quand ils s'exercent par la force entre nations en état de paix; et cependant ce n'est point le cas d'après le droit des gens. Au contraire, il est loisible aux États d'employer de semblables moyens avant de recourir au moyen extrême, la guerre, car c'est seulement la guerre, et non point le blocus, qui est le dernier moyen.'

Another argument which is sometimes alleged against the legality of pacific blockade is founded on the fact that in some cases exceptions have been made to the universal application of the blockade. Thus in 1886 the blockade of the Greek coast was only enforced against ships belonging to Greece or to one of the blockading powers, while in 1897 the proclamation of the blockade of Crete contained the following notice: 'Ships of the six powers or neutral powers may enter into the ports occupied by the powers and land their merchandise, but only if it is not for the Greek troops or the interior of the Island.' It is argued that a blockade is the shutting up of a port to all commerce, and that if exceptions are made these will invalidate the blockade. This is true of a warlike blockade;³

¹ Geffcken (*Annuaire*, p. 287), however, argues that reprisals ought to consist of isolated acts, and that when they become general reprisals they are tantamount to war and usually regarded as such, and that pacific blockade is really only a form of general reprisals. ² p. 575.

³ Cf. Phillimore, *Commentaries upon International Law*, 3rd ed., vol. iii, p. 487: 'The Court will hold that merchants generally are justified in treating the blockade as taken off in a case in which some ships have been allowed to enter or come out from motives of civility or other considera-

but it does not follow that every rule governing a blockade in time of war is necessarily applicable to a pacific blockade. They possess analogous characteristics, and hence the similarity in name, but the analogy must not be pressed too far. A blockade properly so called is a measure of war instituted under certain conditions in order that a belligerent may prevent neutral commerce from coming to the blockaded port. Without it he would still be able to interfere with and capture the shipping of the blockaded state, but it is his adherence to the necessary conditions that gives him the right to touch neutral shipping. A pacific blockade, on the other hand, is an act of force primarily directed against the state blockaded with a view to coercing it to follow the line of policy desired. As it occurs in time of peace there are no belligerents, and therefore no neutrals, since neutrality is merely the condition of a state in relation to two opposing belligerents.¹ The rules, therefore, which deal with neutral states are not applicable. It might, of course, be argued that in these circumstances there is no need whatever for a state which wishes to interrupt the commerce of another by way of reprisals to adhere to any rules at all, and that therefore pacific blockade has no existence as a separate institution.² But the facts do not support this argument. Pacific blockades have occurred in the past, and although possibly there may be no abstract necessity for any rules on the subject, yet it is distinctly desirable that, just as a state has to observe certain rules in the conduct of a war, so it should be subject to a certain amount of restraint in the conduct of a pacific blockade; indeed, the obvious opportunities for oppression which an unbridled use of this method

tions (*The Rolla*, 6 C. Rob. Adm. Rep., p. 372; *The Byfield*, Edw., p. 158; *The Juno*, 2 C. Rob. Adm. Rep., p. 162). Therefore a relaxation of blockade in favour of belligerents to the exclusion of neutrals, or vice versa, vitiates the blockade (*The Franciska*, 2 Spinks, p. 135; 10 Moore, P. C. Rep., p. 32). Cf. Geffcken, *Annuaire*, p. 289.

¹ Cf. Westlake, *Revue de Droit International*, t. vii, p. 611: 'D'ailleurs point de belligérants, point de neutres, et puisqu'il n'y a que les neutres que les blocus touchent, il n'y a personne qui ait à respecter un blocus pacifique;' and Geffcken, *Annuaire*, pp. 290-1.

² Cf. Fauchille, p. 38: 'Les prétendus blocus pacifiques n'existent pas.'

of settling international disputes might give to an unscrupulous power, render it imperative that the limits of the practice should be most accurately defined.

Another argument is based on the fact that in treaties dealing with blockade, such as the Declaration of Paris, the terms enemy, belligerent, and neutral continually recur.¹ But this is due to the fact that the treaties in question deal with blockades in time of war, and not with pacific blockades at all.² It is unfortunate that many jurists, and statesmen also, have used these terms, since they are really inapplicable to pacific blockade; but the fact that the difference between a blockade in time of war and a pacific blockade has not been clearly defined does not warrant the assumption that there is no difference between them, or that a pacific blockade is an impossibility. Rather it points to the conclusion that in the particular case in which such terms were used it was thought that the blockade was warlike and not pacific. As a matter of fact, it is sometimes extremely difficult to decide whether a blockade is warlike or pacific, and one of the strongest arguments that can be raised against the practice is that it tends to blur that clear line of demarcation which for the general good of the body of states should be drawn between peace and war. Cauchy, indeed, describes it as a 'mélange de la guerre avec la paix';³ but although its rules are undoubtedly a compromise between those of war and peace, yet every blockade must of necessity be either peaceful or warlike.

As matters stand it depends wholly on the action of the blockaded state whether a blockade shall be considered as warlike or pacific. It is agreed that one state can treat as an act of war what was intended by another merely as an embargo or as reprisals.⁴ So a blockaded state can

¹ Cf. Fauchille, pp. 44-5; Geffcken, *Annuaire*, pp. 290-1.

² A similar remark applies to the judgment of the Supreme Court of the United States in *The Fox*, which declared that blockade is a belligerent right.

³ *Le droit maritime international*, t. ii, pp. 426-8. Cf. De Burgh, *The Elements of Maritime International Law* (1868), p. 121.

⁴ Cf. F. de Martens, *Traité de droit international*, t. iii, § 105: 'Il y a

treat the institution of a pacific blockade as an act of war, and thereupon a state of war will immediately ensue. But there is no necessity for a state to take this extreme course. It can put up with the affront and remain at peace, although relations are likely to become somewhat strained between it and the blockading power. But the position which the blockaded state takes up is a matter for itself alone, and on its action depends whether a state of war is or is not set up.

It is a frequent objection that pacific blockades are always directed against weak and never against powerful states,¹ and that if any attempt to coerce a powerful state in this way was made it would inevitably result in war. These premisses are undoubtedly correct, but the conclusion derived from them, that pacific blockade is necessarily a wrongful act, is unsound. While it is true that pacific blockades have only been directed against comparatively weak states, there is nothing whatever in the essential nature of a pacific blockade which would prevent its being put into operation against a powerful state. Directly such a pacific blockade was instituted the powerful state, equally with a weak one, would have to consider whether it would regard the affront as an act of war or not, and the fact that it is highly probable that war would follow is really immaterial.²

This theoretical aspect of the case was admitted by Great Britain in a convention entered into with the Argen-

représailles si l'État contre lequel elles sont exercées n'y répond pas par des actes d'hostilité. Si, au contraire, il ouvre à son tour les hostilités, c'est la guerre.'

¹ Mr. Westlake, for example, says: 'Il n'est pas digne d'un grand État qui croit avoir à se plaindre d'un petit de chercher à s'approprier les côtés faciles de la guerre sans en courir les risques;' cf. the Russian protest against the blockade of Greece in 1850. See also Geffcken, 4th (French) ed. of Heffter, and *Annuaire*, p. 293: 'Dans tous les autres cas [except Greece, 1886] je ne peux reconnaître qu'un abus de la force du plus fort contre le faible;' Barès, p. 84.

² Cf. Oppenheim, ii, § 49: 'It may nevertheless find application with success against a powerful naval state if exercised by the united navies of several powers.'

tine Confederation on November 24, 1849. In this she acknowledged that the line of conduct pursued against the latter power would have been applicable in similar circumstances against Great Britain.¹

It must also be remembered that small states presume on the fact that they are small,² and have been responsible for most of the petty annoyances which have caused the majority of the pacific blockades of the past. The only sanction known to International Law is force, and if states will not conduct their affairs in accordance with ordinary usage and courtesy, forcible means of compulsion must be adopted. Some method less severe than war is required for the 'performance of the necessary police duties of enforcing the laws which have to exist between all the nations of the world',³ and pacific blockade has been shown in the past to be an effective means of compulsion for that purpose. Its effects are much less damaging to the citizens of the blockaded state than a war, and if recourse has to be had to force it is surely wise to confine its exercise within as narrow limits as possible.⁴

It is sometimes urged as a reason for doubting the legality of the practice, that it is a comparatively new institution. It is, of course, true that the first instance did not occur till 1827, but since that date there have been nearly a score of cases, and even if at first it could be argued that the practice had not become recognized by International Law, such a contention is no longer tenable.⁵ Several of the more recent writers adopt the view that it has been in-

¹ Art. 5, Hertslet, *Treaties*, vol. viii, p. 105.

² Lord Palmerston, in his great speech on June 25, 1850, asked the pertinent question, 'Does the smallness of a country justify the magnitude of its evil acts?' *Hansard*, 3rd series, vol. cxii, col. 397.

³ Lord Cranborne, on the blockade of Venezuela, in the House of Commons, December 15, 1902, *Hansard*, 4th series, vol. cxvi, col. 1262.

⁴ The advantages of pacific blockade from a humanitarian point of view are insisted on by Cauchy, *Le droit maritime international* (1862), t. ii, pp. 426-8; Gessner, *Le droit des neutres sur mer*, 1st ed., pp. 215-23.

⁵ But cf. Calvo, *Dictionnaire de droit international* (1885), t. i, p. 102: 'La pratique des blocus pacifiques . . . n'a pas non plus reçu la sanction du droit conventionnel.'

corporated in those rules for the conduct of states which we call International Law. Thus M. Rivier writes: 'Il n'est guère possible aujourd'hui de dénier au blocus le caractère d'une institution du droit des gens actuel.'¹ Oppenheim regards 'the institution of pacific blockade as of great value, be it as an act of reprisals or of intervention.'² Hall comes to the conclusion that, 'subject to the limitation that it shall be felt only by the blockaded country, it is a convenient practice, it is a moderate one in its effects on that country, and it may sometimes be of use as a measure of international police when hostile action would be inappropriate and no action less stringent would be effective.'³ Lawrence lays down the proposition that 'if no trade other than that of the blockaded and the blockading powers is molested it is impossible to say that any international offence is committed. The parties immediately concerned must be allowed to settle their disagreements in their own way.'⁴ Westlake, who in 1874⁵ was distinctly opposed to the practice, writes in 1907 that: 'Pacific Blockade as against the quasi-enemy is too well established as a recognized institution to be longer attacked with serious hope of success.'⁶ Mr. F. E. Smith considers that the legality of the practice is now well settled by the general practice of Europe.⁷ Heffter also says 'la légalité de cette mesure ne peut faire l'objet d'aucun doute'.⁸ M. Ducrocq, the most modern investigator of the subject, comes to the following conclusion: 'Nous pouvons, à mon avis, déclarer que les nombreux blocus pacifiques du siècle . . . s'ils ne suffisent pas à légitimer ce mode de contrainte au point de vue juridique, constituent tout au moins et

¹ *Principes du droit des gens* (1896), t. ii, pp. 198-9. He appears, however, to be opposed to the practice on theoretical grounds.

² ii, § 49.

³ *International Law*, 5th ed., p. 375.

⁴ *The Principles of International Law* (1900), § 159.

⁵ *Revue de droit international*, t. vii, p. 611.

⁶ Westlake, *International Law*, Part II, 'War' (1907), p. 16.

⁷ *International Law* (1900), pp. 91-2.

⁸ *Le droit international de l'Europe* (3rd French ed. by Bergson, 1873), pp. 215-6.

à n'en pas douter un usage international.'¹ Besides the above-mentioned jurists, Barès,² Bluntschli,³ Ferguson,⁴ Fiore⁵ and Perels⁶ must also be cited as supporters of the practice, while the Institute of International Law, at its meeting in 1887, recognized its legality and laid down the following rules for its conduct: 'L'établissement d'un blocus en dehors de l'état de guerre ne doit être considéré comme permis par le droit des gens que sous les conditions suivantes :—

' 1. Les navires de pavillon étranger peuvent entrer librement malgré le blocus.

' 2. Le blocus pacifique doit être déclaré et notifié officiellement, et maintenu par une force suffisante.

' 3. Les navires de la puissance bloquée qui ne respectent pas un pareil blocus peuvent être séquestrés. Le blocus ayant cessé ils doivent être restitués avec leurs cargaisons à leurs propriétaires, mais sans dédommagement à aucun titre.'⁷

On the whole, therefore, it may be laid down with some assurance that theory, practice, and modern juristic opinion are united in recognizing pacific blockade as having become a legitimate weapon of coercion in the armoury of states, a view which is shared by the present author.

¹ p. 77, and cf. p. 64.

² p. 155.

³ *Das moderne Völkerrecht der civilisierten Staaten* (1872), § 506.

⁴ *Manual of International Law*, vol. ii. pp. 240-1.

⁵ *Trattato di Diritto Internazionale Pubblico* (2nd ed., 1882), t. ii, pp. 498-9.

⁶ *Das internationale öffentliche Seerecht der Gegenwart* (1882), pp. 167-9, and *Annuaire*, p. 286. Calvo, § 1858, also quotes Cauchy, Boeck, and Rolin-Jacquemyns as in favour of pacific blockade.

⁷ *Annuaire*, p. 300.

CHAPTER IV

NOTICE

ON the institution of a blockade in time of war it is necessary that the belligerent's 'intention must have in some way been brought to the knowledge of the neutrals affected . . . but opinions differ widely as to whether it is sufficient, in order to justify the belligerent in seizing the property of the neutral, that the knowledge of the latter shall be proved or whether a formal notification must be served upon him.'¹

By the English theory, knowledge of the blockade, however acquired, is a condition precedent to condemnation. A notification to neutral governments is the usual, though not the only, means of imparting that knowledge. According to French practice, however, a notification to neutral governments is a mere matter of courtesy, and a vessel can only be condemned after it has been warned by one of the blockading squadron and an endorsement of the date and time of such warning has been made on its papers.²

It has been generally assumed³ that the rules as to notice in a pacific blockade should be the same as those for a blockade in time of war. But as a matter of fact the two cases are distinct and require different treatment.

In determining what notice is necessary, different considerations apply to the blockaded state, third states and the ships themselves.

A notice to the blockaded state is not strictly necessary. The effect and validity of a pacific blockade depend upon force, and not upon the delivery of any formal notification. If the state whose coasts are thus blockaded is unwilling

¹ Hall, *International Law*, 5th ed., p. 694.

² *Ibid.*, pp. 693-9.

³ Ducrocq, p. 78; *Annuaire*, pp. 300-1; Bulmerincq, pp. 578-9; Calvo, § 1859. Barès, p. 124, is an exception.

to submit to the necessary consequences of the operation, it has a remedy—war; but unless it takes this means of resisting the blockade, any protest on the ground of lack of notice would have little effect.

As a matter of fact, however, some notice or warning is almost invariably given. The object of a pacific blockade is to induce the blockaded state to alter its policy in some one or more particulars, and it is greatly to the benefit of the blockading state if that object can be achieved without the necessity of a blockade. Accordingly, it is not until diplomatic means have failed that recourse is had to a blockade, and the last weapon of diplomacy is usually a threat that unless the demands made are complied with within a specified time other means will be adopted. With the exception of the blockades of Zanzibar and of Gaeta and Messina, both of which were of an exceptional nature, and the latter perhaps warlike, it would appear that some ultimatum or warning preceded the institution of each of the blockades considered in Part II.¹ In many of these ultimatums the states were warned as to the exact nature of the measures which it was proposed to take against them, but even in those cases in which this was not done the situation of affairs was such that no surprise could be felt at the commencement of coercive measures.²

With regard to the necessity of notice to third states there seems to be considerable confusion of thought. The Institute of International Law, when considering this subject, declared that one of the conditions to which a pacific block-

¹ For details as to these ultimatums see the historical studies of the blockades in Part II. It is not clear that any ultimatums or warnings were given before the institution of the blockades of Carthage, San Juan de Nicaragua, and San Salvador, but the strong probability is that there were.

² Oppenheim, ii, § 48, contains the following dictum on the subject: 'As blockade, being a violation of the territorial supremacy of the blockaded state, is *prima facie* of a hostile character, it is necessary for such state as intends in time of peace to blockade another, to notify its intention to the latter, and to fix the day and hour for the establishment of the blockade.'

ade ought to conform before it could be considered as in accordance with International Law was, '(2) Le blocus pacifique doit être déclaré et notifié officiellement . . .'.¹ This declaration is, however, manifestly inconsistent with the previous statement, '(1) Les navires de pavillon étranger peuvent entrer librement malgré le blocus.'² If the vessels of third states are put under no disability on account of the blockade, and are allowed to continue their commerce as if there were no blockade in existence, there is surely no reason why notice of the blockade should be given to them or to the states to which they belong. Notice of a blockade in time of war is only given to neutrals because the blockading state intends to exercise its right of preventing neutral vessels from communicating with the shores blockaded. So, therefore, notification to third states should only be necessary in the case of a pacific blockade where its operations extend to their vessels. Practice, however, on this point shows some variation. No formal official notice to third states appears to have been given in the blockades of Greece (1827), the Netherlands (1832-3) and Brazil (1862-3), in none of which were the vessels of third states liable to capture.³ On the other hand, in the blockade of the Tagus by France, in 1831, the French admiral gave notice to the British representative⁴ at Lisbon. Notice of the institution of the blockade of Greece, in 1850, was also given to thirteen of the consul-generals and consuls at Athens.⁵ Again, in 1886, when the coasts of Greece were blockaded by five of the Great Powers, a copy of the instructions to the British commander as to the blockade was sent to the British representatives abroad,⁶ and presumably

¹ *Annuaire*, p. 300.

² *Ibid.*

³ Bulmerincq (p. 260), however, says that the blockade of Greece, 1827, was binding on neutrals.

⁴ B. S. P. 1831, 'Correspondence relative to the French demands upon the Government of Portugal,' p. 47.

⁵ B. S. P. 1850, 'Further correspondence respecting the demands made upon the Greek Government' (bound in vol. lvi. at p. 407), pp. 46-7, and vide Appendix, pp. 168-70.

⁶ B. S. P. Greece, No. 4 (1886), p. 1.

communicated by them to the governments to which they were accredited. But in none of the last three cases were the vessels of third states interfered with.

In those blockades in which the vessels of third states were liable to seizure it would appear that notice has almost always been given to such states. France gave notice to Great Britain of her blockades of the Argentine Republic (1838–40),¹ Mexico (1838),² Formosa (1884–5)³ and Siam (1893),⁴ and to Sardinia of her blockade of the coasts of the Argentine Republic from 1845 to 1850.⁵ The blockade of Gaeta by the Sardinia squadron was notified to Great Britain;⁶ that of Crete by the six powers to the United States,⁷ and that of Zanzibar by Germany to Great Britain and the other powers.⁸ Although no details of the notification of these blockades to other states can be quoted, there can scarcely be any doubt that having been notified to one state they were notified to all.

Notices of all the remaining blockades in which Great Britain took part appeared in the *London Gazette*,⁹ and would therefore probably be communicated to the representatives of other states in London. Moreover, in two cases it is certain that one of the other states at least had notice. While the blockade of Nicaragua in 1844 was in progress, the Consul-General of France applied for a relaxation of the blockade on behalf of a French ship;¹⁰ and in 1889, during the blockade of Zanzibar, the French Government informed the French consul that it

¹ *L. G.* June 22, 1838; vide Appendix, p. 161.

² *L. G.* June 5, 1838; vide Appendix, pp. 159–60.

³ *L. G.* October 24, 1884; vide Appendix, pp. 171–3.

⁴ *B. S. P. Siam*, No. 1 (1894).

⁵ Pistoye et Duverdy, p. 382.

⁶ *L. G.* February 8, 1861; vide Appendix, p. 171.

⁷ Barès, p. 52.

⁸ *B. S. P. Africa*, No. 10 (1888), p. 102, and vide Appendix, pp. 175–6.

⁹ Nicaragua, 1842 (*L. G.* August 19, 1842); Nicaragua, 1844 (*L. G.* June 11, 1844); Zanzibar, 1888–9 (*L. G.* December 4, 1888); Venezuela, 1902–3 (*L. G.* December 20, 1902). Vide Appendix, pp. 161–2, 175 and 183.

¹⁰ Vide mention of a dispatch on the subject in the Admiralty Register at the Public Record Office.

had no objection to the search of dhows under the French flag by the English and German ships.

Four blockades only remain to be considered. Little is known as to the details of the blockades of Carthagená and San Salvador by France, and of Bolivia by Chili, except that all were comparatively unimportant and that the third soon became warlike.¹ The fourth and only remaining blockade, that of New Granada by Great Britain, in 1837, was very short. Before a dispatch announcing its institution could have reached England the blockade had been raised. A declaration of its institution had been made at Jamaica,² but whether this was communicated to other states is not known; nor is it known whether the one French vessel that was detained had been previously warned.

It may, therefore, be fairly stated that it has been the general practice in the past to give notice to other states of the institution of a pacific blockade when the seizure or detention of their vessels has been contemplated. This indeed is only reasonable, and the practice will doubtless continue. If, however, in any future pacific blockade it is decided not to seize or detain the vessels of third states, there should be no obligation to give such states notice, although it might, perhaps, be useful to do so. Some interference, for example, with a vessel might be necessary to verify its flag, as was the case in the blockade of Greece in 1850.

Practice, as might have been expected, has differed as to the necessity of notice to the vessels themselves. We have already seen that it is not essential to give notice of the institution of a blockade to the blockaded state. Neither is it necessary to give notice to the vessels of such a state. Notice is not usually given beforehand when another state's vessels are seized by way of embargo or reprisals, and there is no reason why a different rule should obtain in the case of a pacific blockade. Moreover, in a blockade in time of war it is unnecessary to prove any notice of the blockade

¹ *L. G.* April 22, 1879.

² Vide Appendix, p. 158.

to condemn a vessel of the blockaded state: the mere fact of its nationality is quite sufficient alone for that purpose.¹

With regard to the vessels of other states, however, the position is different. In a warlike blockade the English practice is that where a notice has been given to the neutral state at such a time that the captain of any vessel ought to have known of the blockade, the vessel is liable to capture and condemnation if it sets out for a blockaded port, unless that port is a great distance away and a clear intimation of inquiry at an intermediate port as to the existence of the blockade is shown. On the other hand, French practice requires a notice or warning to be given to each vessel individually, whether notice has been given to the state to which it belongs or not,² a practice which, as Woolsey says, 'is like giving notice to a burglar trying to break into a house.'³

The head note of the case of *La Louisa* states: 'Pour qu'un navire neutre puisse être légitimement capturé comme ayant violé le blocus établi par les forces navales françaises, il ne suffit pas que ledit blocus ait été notifié aux agents des puissances étrangères. Il faut, en outre, que le navire ait été spécialement averti de l'existence et de l'étendue du blocus et que la mention de cet avertissement ait été inscrite sur son rôle à équipage.'⁴

It might have been expected that the above distinction

¹ In the blockade of Greece in 1886 the instructions to the British commander directed that 'the officer who boards will enter in the log of any ship allowed to proceed the fact of her having been visited and allowed to proceed: also day and at what place such visit occurred' (B. S. P. Greece, No. 4 (1886), p. 1). This cannot be construed, however, as directing that notice should precede seizure, as the same instructions order the detention of all Greek vessels attempting to enter or come out from the blockaded ports.

² Cf. the dispatch of Count Molé *re* Mexican blockade quoted by Woolsey, *Introduction to Study of International Law*, 4th ed., p. 463.

³ *Ibid.*, p. 464.

⁴ Pistoye et Duverdy, *Traité des prises maritimes* (1855), t. i, p. 382, *Conseil d'État* of December 21, 1847, on appeal from a decision of the prize court of Monte Video of July 18, 1846.

would have reappeared in the case of pacific blockades, and to some extent it has done so, although in the main the French practice has been adhered to. No notice was given to the vessels individually in the blockades of New Granada (1837), Zanzibar (1888-9) and Crete (1897). In the first of these blockades, however, only one ship of a third state was detained; in the second the operations were mainly confined to the native dhows; and in the third the blockade was specifically directed against Greek vessels, and others were allowed to enter if the cargoes were not intended for the insurgents. This does not, therefore, constitute a large body of practice.

On the other hand, notice was given to the vessels themselves in the blockades of Mexico (1838), the Argentine Republic (1838-40 and 1845-50) and Formosa (1884-5), instituted by France. The blockade of the Menam, in 1893, was of too short a duration to produce any definite evidence, but doubtless the usual French practice would have been followed had it continued. In the blockades of Nicaragua by Great Britain, in 1842 and 1844, a similar method was adopted. That of 1842 was a *de facto* blockade, and it was, therefore, necessary to give an individual warning to any vessels which approached, while in that of 1844 Genoese, French and English vessels were turned away, without being actually detained. The blockade of Venezuela (1902-3) affords another instance in which the French practice was adopted. In the elaborate instructions¹ which were issued for the guidance of the British officers it was directed that 'every merchant vessel . . . is to receive a special notification', and full details were added of the manner in which this was to be done.

It cannot be said that any rule has as yet been established allowing interference with the vessels of third states. If, therefore, it is proposed in any blockade to interfere with them in any way it would seem better to adopt the practice of warning vessels individually, as well as giving a notice to third states wherever that is possible.

One of the essential conditions of a blockade in time of

¹ Vide *infra*, pp. 153-4.

war is that it should be effective.¹ The Institute of International Law, in considering the subject of pacific blockade, laid down: '(2) Le blocus pacifique doit être . . . maintenu par une force suffisante.'² Here again the Institute appears to have been inconsistent, in view of its former declaration that '(1) Les navires de pavillon étranger peuvent entrer librement malgré le blocus'.³ The necessity for a warlike blockade to be effective is due to the desire that it shall be respected by neutrals and that their vessels may be liable to condemnation if they attempt to break the blockade. Vessels of the blockaded state may be captured and condemned quite apart from the fact that there is a blockade, and whether that blockade is effective or not. If, therefore, a pacific blockade is to be restricted in its operation to the vessels of the blockaded state, there seems no valid reason why the blockade need be effective.³ If, however, the vessels of third states are liable to capture and condemnation, the blockade should undoubtedly be effective, as that is one of the conditions which legalize such condemnation. But if the vessels are only liable to be turned away there seems no abstract reason why this rule should be insisted on. The only result of its absence would be that the vessels would have a better chance of evading the blockading force.

¹ Cf. Declaration of Paris, 1856.

² *Annuaire*, p. 300, and cf. Bulmerincq, pp. 578-9; Oppenheim, ii, § 48.

³ But cf. Barès, p. 122: 'La condition d'effectivité est donc si évidente qu'il est superflu de l'exiger et inutile de la formuler.'

CHAPTER V

TREATMENT OF THE SHIPS OF THE BLOCKADED STATE

THE object of a blockade is to prevent—by force, if necessary—vessels from communicating with the port or part of the coast blockaded. This is so whether the blockade is an operation of war or whether it is merely pacific. In war, if a ship after due warning persists in an endeavour to communicate with the shore, or, as it is termed, ‘run the blockade,’ it is seized by the blockading squadron, taken before a prize court, and, if the offence is fully proved, condemned with its cargo as a prize. In a pacific blockade, however, the procedure is somewhat different. It is true that if vessels attempt to break the blockade they are seized and detained, although this rule is not without some exceptions. But here the analogy to a warlike blockade usually ends, for they are not in general taken before a prize court, and when the blockade is raised are usually handed back to their owners uninjured save for the ordinary chances of wear and tear.

In considering what force is permissible towards vessels breaking or attempting to break a blockade, different considerations apply according to the nationality of the vessels. It is obvious that a state has a right to lay down what rules it pleases for the guidance of its own subjects, and to punish those that disobey. Therefore no question can arise as to the authority of a blockading state to compel its own vessels to obey the rules of any blockade it may institute.

The object of a pacific blockade is to force the blockaded state to comply with the requirements, whatever they may be, of the blockading state. To effect its purpose the latter cuts off the commerce of the former by preventing its vessels from entering or leaving their home ports. With

the possible exception of the case of Crete in 1897, pacific blockades in the past have always been directed against the vessels of the state actually blockaded. The case of Crete is peculiar. A Turkish island with a mixed Christian and Mohammedan population, it was at the beginning of 1897 in the midst of an insurrection fomented by Greek agitators and having as its object the abolition of Turkish rule and the annexation of the island to Greece. The Great Powers who compose what is known as the Concert of Europe were endeavouring to quiet the insurrection and arrange matters between Greece and Turkey. In spite of this, however, the Cretan insurgents proclaimed their union with Greece, Greek troops landed on the island,¹ and Colonel Vassos, their commander, issued a proclamation: 'In the name of H.M. George the First, King of the Hellenes, I occupy the island of Crete.'² The withdrawal of the Greek forces was demanded but refused, and in consequence³ a blockade of the island was instituted by the Great Powers. This was made general for Greek ships, while other vessels were admitted on the condition 'that their cargoes should not be intended for the Greek troops or the interior'. This practically amounted to no restriction whatever being placed on Turkish vessels, and, as Crete was a Turkish island, forms an exception to the general rule. It should be remembered, however, that if Crete had been regarded as annexed to Greece by the act of Colonel Vassos, the blockade would have been one of Greek territory and quite in line with other cases; and although the Great Powers did not take this view, yet the fact remains that the blockade was instituted because of the presence of Colonel Vassos, and was intended to place constraint on Greece and not on Turkey. In view, therefore, of these considerations the exception appears to be more nominal than real.

Certain other slight exceptions to the general rule that all vessels sailing under the flag of the blockaded state are subject to the blockade may be noticed. In one case—

¹ *Annual Register*, 1897, p. 308.

² B. S. P. Turkey, No. 10 (1897), p. 80.

³ B. S. P. Turkey, No. 9 (1897), p. 33; and vide *infra*, p. 143.

that of Mexico in 1838—native fishing-boats were exempted from the operation of the blockade.¹ This followed the ordinary rule of warfare that inshore fishing-boats are not interfered with unless they become dangerous, as, for example, in the case of the projected invasion of England by Napoleon. But this particular exemption does not seem to have been repeated in any other case.² The prevention of famine has been another reason for exemption in a few cases. Thus in 1827, when the allied squadrons were blockading the coast of Greece, Turkish transports with supplies, and under the convoy of French or English men of war, were allowed to leave the Dardanelles regularly in order to revictual the Egyptian and Turkish fleet of Ibrahim Pasha in Navarino Bay.³ Again, when the coasts of Greece were blockaded in 1886 by the Great Powers, the following orders from home were communicated to the British admiral: 'Should any actual distress arise in the island [Euboea] from food being scarce pending the receipt of supplies from the Greek Government you have authority to do all that you think necessary to relieve it, and even special permission may be granted to vessels carrying provisions under such regulations as you may permit, which are to be sufficiently stringent.'⁴

In three instances the blockade was confined to a particular kind of traffic, and did not apply to all cargoes. The case of Crete has already been mentioned, in which the only restriction on the landing of goods was that they should not be intended for the use of the Greek troops or for the interior of the island.⁵ In the case of Zanzibar the blockade was directed against the importation of arms and war material and the exportation of slaves,⁶ and ordinary commerce was not prohibited. The net result of four months of this blockade by the British vessels appears to have been

¹ Ducrocq, p. 112.

² At the second Hague Conference, 1907, a regulation was adopted exempting coast fishing-boats from capture so long as they do not participate in hostilities. [B. S. P. Miscellaneous No. 1 (1908), pp. 127-32].

³ *Annual Register*, 1827.

⁴ B. S. P. Greece, No. 4 (1886), p. 9.

⁵ B. S. P. Turkey, No. 10 (1897), p. 123.

⁶ B. S. P. Africa, No. 1 (1889), p. 9, and vide Appendix, pp. 174-9.

the visiting of 3,876 dhows, with three small captures, of which two were subsequently released, while the remaining one had ten slaves on board.¹ The blockade, however, had a depressing effect generally on trade.¹ The third case is that of Gaeta, where the blockade in the first instance merely applied to contraband of war.²

Another cause of exemption is found in the carrying of foreign cargo in the ships of the blockaded state. This would make very little difference if the vessels of third states were themselves subject to the blockade, but where this is not the case, some relaxation of the rule might be looked for. In three cases this occurred. In 1850, when the coasts of Greece were blockaded by Great Britain, the local authorities at the Piraeus were informed that 'no Greek vessel can be allowed to quit a Greek port unless previously chartered to carry a cargo or part of a cargo belonging to foreign merchants. Such vessels will be allowed to put to sea; but this exception cannot be applied to any Greek vessel chartered by foreign merchants after the present notification.'³ This exemption led to a great deal of antedating of charter-parties and pseudo-sales of vessels; indeed, the British admiral reported to the Admiralty that 'every subterfuge has been resorted to by tampering with the papers of Greek ships to exempt them and their cargoes from detention'.⁴ Austria and Russia claimed a further exemption on the ground that insurances had been effected and bottomry bonds taken on certain vessels by residents in those countries, but these claims were not allowed by Great Britain.⁴ Again, when Great Britain was blockading the coast of Brazil, in 1862-3, the British consul was informed that 'if any vessel seized by Admiral Warren's orders shall contain property belonging to parties who are not Brazilians the admiral will, on the nationality of the owners being proved to his satisfaction, give every facility in his power for the delivery of the property to the owners without any delay which

¹ B. S. P. Africa, No. 1 (1889).

² Vide Appendix, p. 170.

³ B. S. P. 1850, 'Further correspondence respecting the demands made upon the Greek Government' (bound in vol. lvi, at p. 407), p. 46

⁴ Ibid., p. 117.

can be avoided'.¹ The blockade of Greece, in 1886, produced a somewhat similar exemption to that allowed in 1850. The British commander-in-chief received instructions which contain the following reservation: 'Should, however, the cargo or any part of the cargo on board any ship belong to a subject or citizen of a foreign power other than Greece and other than the blockading powers, and should such cargo have been shipped before the notification of the blockade, or after such notification but under a charter made anterior to the notification, such ship or vessel is not to be detained.'² In the remaining blockades where the vessels of third states were not interfered with, there is no evidence as to what treatment was accorded to vessels of the blockaded state which had on board property belonging to the subjects of another state. It may, therefore, be laid down with some confidence that in such blockades it is customary to give facilities for the arrival or departure of merchandise belonging to citizens of other states in vessels flying the flag of the blockaded state, provided that the arrangements for such method of transport were made before the announcement of the blockade.

In one case, also, it would seem from the wording of the official notice of blockade that the government vessels of the blockaded state were exempt from the operation of the blockade. The proclamation instituting an embargo on the vessels of the Netherlands, in 1832, orders all British commanders to 'detain and bring into port all merchant ships and vessels bearing the flag of the Netherlands'.³ This was carried out by a blockade of the coast, but there is no evidence to show that its operation was confined to merchant vessels. Even if it was, the example does not appear to have been followed, and in at least five cases—Greece 1827, Portugal 1831, Argentine Republic 1845–50, Greece 1850 and Venezuela 1902–3—the opposite course was taken. In all these cases the first vessels interfered with

¹ B. S. P. 1863, 'Correspondence respecting the plunder of the wreck of the British barque *Prince of Wales*, &c.,' p. 138.

² B. S. P. Greece, No. 4, 1886, p. 1.

³ *L. G.* November 7, 1832; vide Appendix, p. 158.

appear to have been those belonging to the governments of the respective countries blockaded.

With the above exceptions, therefore, it may be laid down as a general rule that in all past pacific blockades all kinds of vessels flying the flag of the blockaded state have been subject to the blockade. What treatment should be accorded them must next be considered.¹

This is purely a question between the states concerned in each case.² The state which is subjected to the blockade must itself judge how far it will allow the blockading state to go without treating its acts as hostile and so instituting a state of war. It is obvious, therefore, that in some cases much more might be permitted than in others. It is difficult, in these circumstances, to lay down any definite rule which it might be expected that a blockading state would follow, in dealing with the vessels of the state blockaded, except that it would use a measure of compulsion sufficient to force the state blockaded to comply with its demands.³

In practice it has been usual to detain the vessels of the blockaded state during the continuance of the blockade and to hand them back to their owners at its conclusion. But this has not been so in all cases. The vessels of the Turkish and Egyptian fleet were destroyed in the battle of Navarino, in 1827, when the British, French and Russian squadrons were blockading the coasts of Greece. Again, in 1902, the Germans seem to have sunk two of the Venezuelan Government vessels which had been captured by their boats, although no resistance had been offered.⁴ Three native boats were sunk by H.M.S. *Dryad* during the blockade of Crete, in 1897, owing to the bad weather.⁵ These cases are,

¹ Most writers—e.g. Bulmerincq, pp. 578-9; Oppenheim, ii, § 47—agree that the vessels ought to be restored at the end of the blockade.

² Cf. Ducrocq, p. 66: 'Tout individu qui se met en opposition avec les mesures de contrainte qu'un gouvernement étranger croit devoir appliquer à sa patrie ne peut le faire qu'à ses risques et périls.'

³ Cf. Hall, *International Law*, 4th ed., p. 385.

⁴ B. S. P. Venezuela, No. 1 (1903), p. 167. One vessel which could not be brought out appears also to have been disabled by the boats from H.M.S. *Retribution*.

⁵ B. S. P. Turkey, No. 10 (1897), p. 163.

however, exceptional, but as a blockade once instituted must be maintained, destruction of any vessels which refuse to obey the orders of the blockading squadron must be considered as a possibility.

In certain cases where pecuniary demands were made, and the failure to comply with them was the cause of the blockade, ships appear to have been seized with the idea of raising the money demanded by their sale. Thus when Rio de Janeiro was blockaded, in 1862-3, by Great Britain, the admiral in command of the British forces wrote that he was going to 'proceed to sea this day and seize on such Brazilian ships as may be considered necessary as an equivalent for the demands of Her Majesty's Government'.¹

Prize courts were established in a few instances.² But, if the case of Zanzibar is excepted, where condemnation followed seizure on account of participation in the slave trade, the only occasion on which the blockading state refused to give up the vessels of the blockaded state seized during the blockade occurred in the blockade of Portugal by France, in 1831.³ In this case various merchant vessels and two Government vessels, the *Orestes* and the *Urania*, had been seized by the French before forcing the mouth of the Tagus, and these had been sent to France. On entering the Tagus the Portuguese forts fired on the French fleet, causing a loss of three killed and eleven wounded;⁴ but the Portuguese warships surrendered without firing a shot. The Portuguese gave in to the French demands, and a treaty was concluded on July 14, 1831, Articles 17 and 18 of which provided for the return of the two above-mentioned Government vessels and the merchant vessels and their cargoes. Nothing was said, probably by accident, about

¹ B. S. P. 1863, 'Correspondence respecting the plunder of the wreck of the British barque *Prince of Wales*, &c.,' p. 133.

² Both blockades of the Argentine, and those of Zanzibar and Venezuela.

³ Argentine vessels were condemned by the prize court at Monte Video during the first Argentine blockade, but it seems best to regard this as warlike, and not pacific (Pistoye et Duverdy, *Traité des prises maritimes*, 1855, t. i, p. 383).

⁴ B. S. P. 1831, 'Correspondence relative to the French demands upon the Government of Portugal,' p. 64.

the Portuguese fleet captured in the Tagus, and the French refused to hand the vessels back, claiming them as legitimate prize of war. In the course of a report made to Lord Palmerston by the then King's Advocate the following opinion is given: The right to detention 'will depend upon the terms of the convention subsequently entered into . . . for those ships, having surrendered after the declaration and during the pendency of hostilities, although they made no resistance, are to be considered as legitimate prize of war, and not as seized by way of reprisals only'.¹ It is evident that this opinion is based on the idea that a state of war existed between Portugal and France, but from a consideration of the general course of events it would appear probable that Portugal did not intend to engage in war with France.²

Apart from the above-mentioned case of Portugal, specific agreements were made for the return of vessels seized at the close of the blockade of Buenos Ayres, which was instituted in 1845,³ of the blockade of the coasts of Greece in 1850⁴ and of Venezuela in 1902.⁵

Mr. Hall says that 'positive covenants are not inserted in treaties merely to embody obligations which without them would be of equal stringency',⁶ and it might, therefore, be argued that it was not customary to return vessels detained because in several instances agreements to that effect were entered into.⁷ On the other hand, however, when the uncertainty which has surrounded the practice of pacific

¹ B. S. P. 1831, 'Correspondence relative to the French demands upon the Government of Portugal,' p. 79.

² Ibid., and vide *infra*, pp. 77-80.

³ B. S. P. 1850, vol. lvi, p. 1. Convention between Her Majesty and the Argentine Confederation, signed November 24, 1849, at Buenos Ayres. Ratifications exchanged May 15, 1850. Clauses 1 and 2.

⁴ B. S. P. 1850, vol. lvi, at p. 407: 'Further correspondence respecting the demands made upon the Greek Government,' pp. 372 et seq.

⁵ B. S. P. 1903, Venezuela, No. 1, pp. 225-7. Protocol between Great Britain and Venezuela, Article VIII. The German and Italian protocols were in similar form.

⁶ Hall, 4th ed., § 211, p. 610.

⁷ In the second Argentine blockade several native vessels were condemned

blockade in the past, and indeed still does surround it, is considered, it is not to be wondered at that some states should have preferred to have their exact position strictly defined. The verdict, therefore, from the past practice in pacific blockades is undoubtedly that all vessels of the blockaded state which have been detained during the blockade should with their cargoes be handed back on its conclusion.¹ But this declaration is naturally subject to any right which the blockading state might have in the way of reprisals, if, instead of continuing the blockade, it preferred to sell the ships it had seized and so obtain satisfaction for the demands for which it had instituted the blockade.²

In two of the three cases above mentioned where agreements were entered into for the return of the vessels detained, viz. those of Greece in 1850 and Venezuela in 1902-3, it was also provided that no claims of any kind should be made against the blockading power on account of damage or injury to the vessels during their detention. This provision seems to have been inserted through an excess of caution, as it is difficult to see in what way or on what ground the by the French prize court at Monte Video, e. g. *L'Independencia Americana* (Pistoye et Duverdy, *Traité des prises maritimes*, 1855, t. i, p. 384).

¹ A number of authors state that it is the custom of Great Britain to confiscate the vessels of the blockaded state. They include F. de Martens, *Traité de droit international* (1887), t. iii, p. 174; Ducrocq, p. 74; Hautefeuille, *Des droits et des devoirs des nations neutres* (1868), t. ii, p. 271; Fauchille, pp. 38-67; Barès, pp. 77 and 143. The statement appears to be inaccurate. In *Reports of Prize Cases determined in the High Court of Admiralty before the Lords Commissioners of Appeals in Prize Causes, and before the Judicial Committee of the Privy Council from 1743 to 1859*, edited by E. S. Roseve (2 vols., 1905), which is a complete digest of British prize cases, not one single instance is quoted in which a vessel was condemned for the violation of a pacific blockade.

² Mr. Hall's statement (*International Law*, 4th ed., § 123, p. 397) that 'the legitimacy of the appropriation of private property depends upon the existence of a state of war', seems rather too wide, especially when taken in conjunction with his further statement (pp. 383-4), that 'vessels or other property, seized otherwise than by way of embargo . . . may be confiscated as soon as it appears that their mere seizure will not constrain the wrong-doing state to give proper redress'.

blockading state could be made liable. Days of grace are not allowed to vessels of the blockaded state, although occasionally given to the vessels of third states where these come within the scope of the blockade. In this, practice follows the analogy of an ordinary warlike blockade, although in the latter case there is the right to seize, detain and confiscate the vessels of the one belligerent quite apart from the fact of the blockade.

There remains to be considered the position of vessels detained when the blockade was originally pacific, but the relations of the states concerned have subsequently developed into war. This has occurred twice.¹ The first occasion was that of the French blockade of the coast of Mexico in 1838. A pacific blockade had continued for some time, but as it did not effect its purpose, further measures were taken and the fortress of St. Juan d'Ulloa was stormed and captured; thereupon Mexico declared war.² Before this date four Mexican ships had been captured and detained and the question arose what should be done with them. Eventually they were restored to their owners.³ The other occasion on which a blockade, at first pacific, became warlike occurred when, in February 1879, Chili blockaded the coasts of Bolivia.⁴ There is, however, no evidence whether any Bolivian vessels were captured before the declaration of war, or, if so, what was their ultimate fate.

The single instance of the Mexican blockade is not of sufficient authority to enable us to say that it would be followed if similar circumstances were reproduced. In an embargo the vessels of the offending state are seized and their ultimate fate depends on whether war breaks out or not.⁵ 'If peace is confirmed they are released as of course; if war breaks out they become liable to confiscation.'⁶

¹ Perhaps the blockade of Gaeta was also of this character.

² Vide *infra*, p. 87.

³ Ducrocq, p. 112.

⁴ Vide *infra*, pp. 120-2.

⁵ *The Boedes Lust*, 5 Rob. 246.

⁶ Hall, *International Law*, 4th ed., § 120, p. 383.

The position of vessels seized during a pacific blockade which subsequently became warlike would seem to be very nearly the same as that of ships seized under an embargo where war breaks out afterwards, and there seems no reason why they should not be treated in a similar manner. In all probability the cases would be treated as analogous if the question were again to arise.

To sum up, therefore, it would probably not be wide of the mark to say that in a pacific blockade the blockading state may seize and detain all the vessels of the blockaded state or such of them as it thinks best; that it should do no more injury to them than is necessary to their effective seizure and detention; and that at the close of the blockade such vessels with their cargo should be restored to their owners, unless they have been disposed of by way of reprisals to satisfy the demands of the blockading state.

CHAPTER VI

TREATMENT OF THE SHIPS OF STATES UNCONNECTED WITH THE BLOCKADE

THE most important problem in connexion with pacific blockade is the question what treatment must be accorded to the ships of states other than those blockading or blockaded. It is the assumption of a right to seize and detain such vessels that has led many writers to decline to recognize the legality of the practice at all.¹ But, as has been pointed out, it is quite possible to conduct a pacific blockade without interfering in any way with the vessels of other states, although its efficacy under such conditions would undoubtedly be less.² So far as can be ascertained, it would appear that in six³ of the blockades of the past the vessels of third states have not been seized or detained, although in all probability they were visited by the vessels of the blockading squadron. In all other cases,⁴ however, they have been liable to seizure and detention, and occasionally to capture, and it is therefore important to determine whether such treatment can be upheld or not. The opinions of international jurists are, on the whole, opposed to conceding any right to a blockading state to interfere with the vessels of a third state. The Institute of International Law in 1887 laid down as a rule for the proper

¹ Vide *supra*, p. 21, n. 2.

² Cf. Gessner, *Le droit des neutres sur mer*, p. 168; Pillet, *Les lois actuelles de la guerre*, p. 143; and Fauchille, p. 53: 'Prohiber seulement l'entrée ou la sortie des navires de la nation attaquée, alors qu'on permet aux navires étrangers de pénétrer dans le lieu bloqué, n'entraînera jamais un préjudice suffisant pour obliger une nation à satisfaire aux demandes d'une autre nation.'

³ Viz. Greece 1827, Portugal 1831, Netherlands 1832-3, Greece 1850, Brazil 1862-3, Greece 1886.

⁴ Except perhaps the cases of Carthage 1834 and San Salvador 1842, blockaded by France, as to which see Part II, pp. 82 and 91.

conduct of a pacific blockade: 'les navires de pavillon étranger peuvent entrer librement malgré le blocus.'¹ This was substituted for the proposal of M. Perels: 'les navires de pavillon étranger peuvent simplement être empêchés de passer la ligne de blocus.'² M. Geffcken says: 'on n'a aucun droit d'imposer à des États tiers une loi que le belligérant seul a le droit d'appliquer . . . le seul fait de l'interdiction est un préjudice pour leur commerce et ils ne sont nullement tenus de s'y soumettre.'³ De Burgh, while admitting that pacific blockade may be considered as a pacific measure in regard to the blockaded state, adds that 'as regards neutral countries it can only be viewed as a direct act of war'.⁴ Holland writes: 'A pacific blockade by way of reprisal ought to be directed only against the commerce of the state blockaded. It is still an open question whether, when the blockade is instituted for other purposes, it may not be directed against the commerce of third states also.'⁵ Lawrence considers that 'if the commerce of states unconnected with the quarrel is forcibly stopped, an illegal act is done'.⁶ Bluntschli writes: 'Les États neutres . . . ont dans ce cas le droit d'exiger pour les navires neutres la libre entrée et la libre sortie.'⁷ And again: 'Die neutralen Staaten erkennen kein Prisengericht an, wenn die Seeblockade nicht zugleich Kriegsblockade ist, und sind berechtigt für die neutralen Schiffe freie Ein- und Ausfahrt zu fordern.'⁸ F. de Martens comes to the conclusion that 'ce blocus est admissible pourvu que ses effets n'atteignent que les navires de l'État bloqué'.⁹ Lord Palmerston, writing to Lord Normanby on December 7, 1846, says, 'Unless you are at war with a state you have no right to prevent ships of other states from communi-

¹ *Annuaire*, pp. 300-1.

² *Ibid.*, p. 286.

³ *Ibid.*, p. 290-1.

⁴ *The Elements of Maritime International Law* (1868), p. 121.

⁵ p. 145.

⁶ *Principles of International Law* (1900), § 159.

⁷ *Droit international codifié*, Article 507.

⁸ *Das moderne Völkerrecht der civilisierten Staaten*, 1872, § 507

⁹ *Traité de droit international*, t. iii, p. 165.

cating with the ports of that state.'¹ Lord Granville, in a dispatch of November 11, 1884, to M. Waddington, writes: 'The contention of the French Government that a pacific blockade confers on a blockading power the right to capture and condemn the ships of third nations for breach of such a blockade is opposed to the opinions of the most eminent statesmen and jurists of France and to the decisions of its tribunals, and it is in conflict with well-established principles of International Law.'² Among other writers who are also opposed to any interference with the vessels of third states may be mentioned Calvo,³ Fiore,⁴ Hall,⁵ Neumann,⁶ Oppenheim⁷ and Smith.⁸ On the other hand, there are a few jurists who maintain that third states must submit to the commerce of their subjects being interfered with, e.g. Barès,⁹ Bulmerincq,¹⁰ Heffter,¹¹ Perels¹² and Pillet,¹³ but these are in the minority.¹⁴

Looking at the matter from a purely theoretical standpoint, it is at first difficult to come to any other conclusion than that interference with the vessels of third states is unjustifiable. It is true, of course, that such vessels are liable to capture during a warlike blockade or for carrying contraband, but this liability depends on the existence of a state of war, and as pacific blockade is an operation—nominally at any rate—of peace, this justification is not

¹ *Life of Palmerston*, by Rt. Hon. Sir H. Lytton-Bulwer, p. 327.

² B. S. P. France, No. 1 (1884).

³ Calvo, § 1859.

⁴ *Trattato di diritto internazionale pubblico*, 2nd ed. (Turin, 1882), t. ii, § 1507.

⁵ *International Law*, 5th ed., p. 375.

⁶ *Éléments du droit des gens moderne*, 3rd ed., p. 142.

⁷ Oppenheim, § 46.

⁸ *International Law* (1900), p. 92.

⁹ p. 150

¹⁰ *Journal du droit international*, t. ii, pp. 569 et seq.

¹¹ *Le droit international de l'Europe* (3rd French ed., by Bergson, 1873), p. 215; and cf. *Das europäische Völkerrecht der Gegenwart* (7th ed., by Geffcken, 1882), pp. 237-8.

¹² *Annuaire*, p. 286, and also *Das internationale öffentliche Seerecht der Gegenwart* (1882), pp. 167-9.

¹³ *Les lois actuelles de la guerre*, p. 143.

¹⁴ Westlake (*International Law*, Part II, 'War,' p. 17) considers that the practice of pacific blockade as against quasi-neutrals is ambiguous.

present. Again, a state has no jurisdiction outside its own territorial waters over vessels other than its own, except in case of piracy or fresh pursuit.¹ Great Britain, indeed, in its endeavours to put down the slave trade, for some time did stop and search all suspicious dhows, whatever flag they bore ; but the practice was discontinued in view of French protests. The consequence was that by hoisting false colours slave dhows were able to carry on their traffic with impunity, and were only suppressed when the various powers interested came to an agreement allowing each other's warships a mutual right of search within a limited area.

Although, however, a state has no right to visit and search the vessels of other states on the high seas, it has a certain amount of jurisdiction over such vessels in its own territorial waters, and would be within its strict rights if it forbade their entrance to any particular port. It might, therefore, be argued that when one state has proclaimed a pacific blockade of ports of another, and the latter has acquiesced therein, the jurisdiction of the blockaded state over the territorial waters surrounding the blockaded port has been transferred to the blockading state. Accordingly any notice issued by it excluding the vessels of other states from such port would have to be construed as a notice closing such port, given by the blockaded state in virtue of its territorial sovereignty, but through the medium of the blockading state to whom it had delegated such sovereignty for the time being.² The argument as stated above is undoubtedly far-fetched, but so, for the matter of that, are other arguments on which accepted rules of International Law are based. It does undoubtedly give some

¹ Case of *Le Louis* (1817), 2 Dodson, 210, in which Sir William Scott said, 'I can find no authority that gives the right of interruption to the navigation of states in amity upon the high seas, excepting that which the rights of war give to both belligerents against neutrals.'

² That one state has an inherent right to close its ports against the commerce of another state is unquestionable, and it has been acted upon in various instances (cf. Wheaton, *Elements of International Law*, 8th (Dana's) ed., 1866, p. 688), but claims for damage on the ground of the breach of stipulations in treaties of commerce, &c., might arise.

theoretical basis to justify interference with the vessels of third states by a blockading squadron in time of peace. If this line of reasoning were adopted by the blockading state, and it were to declare that it was acting in virtue of such delegated authority, the state blockaded would either have to acquiesce in the assumption by the other of part of its sovereignty or else go to war, in which latter case the blockade would become warlike and any interference with the vessels of third states justifiable. If a blockading state wished to rest the justification of its actions on the above plea, it would have to be careful to confine its interference with the vessels of other states within the limits of the territorial waters of the blockaded state,¹ so that any operation like the blockade of Riga by a vessel sixty miles away, or of Buenos Ayres by vessels stationed off Monte Video, would become impossible. It would seem that, even in these circumstances, any interference should strictly be confined to the prevention of such vessels from entering the port, as is suggested by Perels² and Bulmerincq.³ If, however, after being warned not to communicate with the port in question, a vessel attempted to do so, it would be perfectly justifiable to detain such vessel on the ground of its refusing to obey the rules which the territorial sovereign, acting through its agent the blockading state, had laid down. And if it were once necessary to detain the vessel there would seem to be no reason why such detention should not last as long as the closing of the port lasted. But in view of the fact that 'the legitimacy of the appropriation of private property depends upon the existence

¹ It is generally considered that the territorial waters of a state extend for a distance of three miles from the low-water mark, but it should be remembered that this limit was fixed on the basis of that being the extreme range of canon. There is a growing tendency to extend this limit, of which the opinion of the Institut de Droit International at Paris, in 1894, is a sign on the theoretical, and the blockades of Zanzibar (*vide infra*, p. 179), and of the coasts of Epirus and Salonica in the Greco-Turkish war of 1897 (B. S. P. Turkey, No. 10, 1897, p. 229), in which the limit was extended to five miles, on the practical side.

² *Annuaire*, p. 286.

³ pp. 578-9.

of a state of war,'¹ the vessel could not be confiscated, but would ultimately have to be delivered up to its owners at the conclusion of the blockade.

It is a frequent complaint that states use pacific blockade as a means of compulsion to avoid restrictions to which they would be exposed as belligerents.² There is a considerable amount of truth in this criticism, but, as M. Jules Ferry said in the Chamber of Deputies, 'il était d'une sagesse élémentaire de ne pas compliquer notre conflit . . . de différends ou de difficultés avec les puissances neutres.'³ It is, indeed, to prevent the enforcement of the rules of neutrality that pacific blockade has been so much employed. Before the passing of the United States Neutrality Act of 1794 the rights of neutrals were very ill defined, and there was little check on the conduct of a belligerent. There was no hard-and-fast rule that a neutral must not assist a belligerent, and therefore there was no reason why a belligerent should wish to maintain a state of peace if he was employing forcible means of coercion against another state. But during the last century the present law of neutrality has been built up, and the duties of belligerents are now much stricter than they were a hundred years ago. Hence has arisen the desire to escape their effect, at any rate where the matter in dispute is small, and there seems no reason why this result should not be accomplished by means of a compromise, just as many of the existing rules of International Law have been formed. It is necessary, therefore, to consider the exact reason for the present rules as to the capture of neutral property by belligerents. When two states are at war, the object of each is to cripple the resources of the other and force it to acquiesce in its opponent's demands. The issues at stake between belligerent states are deemed of such magnitude as to override the less important rights of other states not directly engaged in the struggle. These are called neutrals. Each of the

¹ Hall, *International Law* (4th ed.), p. 392.

² e.g. Westlake, *Revue de droit international*, t. vii, p. 611; Geffcken, *Annuaire*, p. 290.

³ *Journal Officiel*, November 27, 1884, p. 245.

combatants is entitled to prevent the subjects of a neutral state giving assistance to the other in certain specified ways, such as supplying munitions of war or revictualling a blockaded port. On the other hand, neutral states are subject to a duty to each of the combatants not to give assistance to the other in certain ways, such as allowing the use of their ports as a base or coaling station. Accordingly most states have laid down regulations stating exactly what may and may not be allowed to a belligerent. If, however, a neutral state allows one belligerent to obtain more assistance than is permitted by the rules of International Law, the other belligerent is entitled to ask for and obtain compensation for the damage it has thereby suffered, as was the case over the *Alabama* claims. But such a claim for compensation can only be made by a belligerent; and it is only because two states are actually at war that this duty devolves upon other states. It is obvious, therefore, that if one state, although subjected to coercion by another, does not regard itself as at war, it can have no claim as a belligerent for compensation against a third state for any assistance that that state may render to the coercing state. It follows further from this, that if the only reason for enforcing the rules of neutrality has been taken away, there is no need to enforce such rules against the coercing state. The coercing state would, therefore, be right in protesting against the enforcement of rules which are intended no longer for the benefit of a neutral, but for that of a combatant who *ex hypothesi* would not in such a case exist.¹ On the other hand, a state engaged in war has the right of interfering in some degree with neutral commerce. Although, however, the measure of force used in a pacific blockade does not approach that which might be used in a war, yet the reason for its use at all—that the state against which it is used may be coerced

¹ But cf. Woolsey, *Introduction to Study of International Law*, 4th ed., p. 444. Where violence has occurred 'the party injured has a right in such cases to regard the condition of things as one of war, and neutral states, in the event of a so-called pacific blockade, would have an equal right to claim that a state of war existed'. Why?

into falling in with the views of the state coercing—is the same. It is, therefore, arguable that, as the reasons for the employment of force are identical, the results as to third states should be identical also, and that the coercing state should have the right of interfering with the commerce of such third states to the extent necessary for accomplishing its aims. It is obvious that if the coercing state thought it essential that the commerce of other states should be prevented from coming to the blockaded port, it might achieve its object by declaring that it was at war with the state whose ports were blockaded. In such a case it would have the usual war rights, not merely of interference and detention, but also of capture and confiscation.

It surely, therefore, is more convenient to a third state not to put in force its neutrality regulations if it is not to be called to account for any breach of them by the blockaded state, and it surely also is a great advantage to it if its vessels are only liable to detention instead of confiscation.¹ Both these advantages can be obtained by a third state by acquiescing in the interference with its commerce to the extent above suggested. If a third state will not accept these terms the alternative is clear. War will be declared, and it will be in a much worse position than it would have been had it not protested. This fact was fully recognized in the case of the Formosan blockade. Great Britain and France came to an agreement that the former on the one hand would not make any formal declaration of neutrality, while the latter would refrain from the search or capture of neutral vessels on the high seas. This agreement was beneficial to both parties, and, although it was not of long duration in this instance, owing to China regarding the blockade as warlike and insisting on its rights as a belligerent, it affords a good precedent for cases in which the blockaded state is ready to recognize the

¹ Cf. Pillet, *Les lois actuelles de la guerre*, p. 143: 'Évidemment un blocus pacifique ne produira son effet qu'à la condition d'interdire aux neutres l'accès de la place bloquée; cela est rigoureux, mais combien serait plus rigoureux encore une guerre qui, intervenant, créerait à leur charge des obligations multiples et singulièrement plus étendues!'

peaceful nature of the blockade. The whole of the present law of neutrality has been gradually built up by compromises between the conflicting interests of belligerents and neutrals, and it would seem, therefore, better for all parties concerned that some such compromise between the conflicting rights of the blockading state and other states not concerned in the quarrel should be definitely reached. Moreover, if the grounds on which peaceful blockades in the past have been instituted are studied, it will be found that in almost every case the blockaded state has first violated some well-known rule of International Law, and that the weapon of peaceful blockade has been used to make it conform to the ordinary rules of International Law and courtesy. In other words, that it is used as a measure of international police. And, since all states are equally concerned that every state which has been admitted to the rights and privileges of membership of the family of nations should carry out the duties imposed on it by such a position, it might have been supposed that they would have been willing to co-operate with any state or body of states which was endeavouring to compel another to conform to the rules of International Law. Such an argument must not, however, be pushed too far, for it practically amounts to saying that a third state should acquiesce in interference with its commerce in the case of a peaceful blockade if it is instituted in a just and righteous cause. But whatever influence the existence of a proper motive may have on the politician or the moralist, International Law cannot take account of such matters.¹ Its province is to determine what results must follow from certain acts quite apart from the question as to the morality of such acts in any particular circumstances.

¹ The Institute of International Law refused by fourteen votes to ten to add the words 's'il est motivé par une juste cause' to the rules it adopted with regard to peaceful blockade (*Annuaire*, p. 299). But cf. Oppenheim, ii, § 48, who lays down that a peaceful blockade is only justifiable after the failure of negotiations; also Bulmerincq, pp. 578-9, who states that there should be a just cause and that this should be stated in the declaration.

The argument in favour of interfering with the vessels of third states is considerably stronger where a number of states have combined to enforce a pacific blockade. The basis of International Law, according to Grotius, was the equality of all states before the law, whatever their size ; but of late signs have not been wanting to show that this theoretical equality is not in accordance with present-day facts. Lawrence,¹ in dealing with the question of the Concert of Europe, has called attention to the fact that the Great Powers of Europe have gradually assumed a right of dictation in certain international matters, and particularly as to Turkish affairs, and although this hegemony, as he terms it, is in conflict with the fundamental principle of Grotius, yet the student of International Law is forced by the logic of facts to recognize its existence. The Concert of Europe has been responsible for two pacific blockades—those of Greece in 1886 and of Crete in 1897—while several others have been undertaken by a combination of states, notably the blockade of Venezuela by Great Britain, Germany and Italy, and that of Zanzibar by the same powers with the co-operation of Portugal and France. In all of these cases except that of Greece the vessels of third states have been subjected to some interference, and it might, therefore, be very well argued that where the blockading force is composed of the vessels of various states their collective action ought to be endorsed by the remaining states permitting some interference with their commerce.

This view is apparently taken by a French jurist who has little sympathy, on the whole, with the pacific blockades of the past. M. Calvo writes : ' Nous voudrions qu'un blocus pacifique ne fût et ne pût être considéré comme légitime par l'ensemble des nations que quand il aurait été jugé nécessaire et justement motivé, comme dans le cas de 1886, par le consentement unanime d'un nombre suffisant d'hommes d'état, représentant assez de points de vue divers et d'intérêts opposés pour qu'on puisse croire que l'opinion de la majorité se rapproche autant de l'équité

¹ *Essays on Disputed Questions in International Law, and Principles of International Law*, pp. 65-7.

absolue qu'on peut l'attendre des jugements humains.'¹ After mentioning various other conditions, he concludes: 'Soumis à de pareilles conditions, le blocus pacifique changerait de caractère: d'arme dans la main des grandes puissances pour imposer leur volonté aux puissances secondaires, il deviendrait un moyen réservé au concert des nations pour réprimer les actes politiques soulevant la réprobation universelle, et évidemment contraire à la justice et au bon droit.'

Apart from the somewhat sophistical justifications for interference with the vessels of third states during a pacific blockade, which have been put forward above, there is the much more substantial argument based on the fact that, although such vessels have been interfered with in nearly all the pacific blockades of the past, there have been very few protests against such interference, and that third states must therefore, on the whole, be taken to have impliedly consented to such interference. In 1838 the Hanse towns of Bremen, Lübeck and Hamburg protested against the confiscation of their vessels during the blockade of Mexico by France;² while in 1845 the representatives of the United States, Portugal and Bolivia protested against the blockade of the Argentine ports by Great Britain and France.³ The absence of any other formal protests⁴ is not due to any lack of initiative on the part of the traders and merchants concerned. In 1838 the British merchants petitioned Lord Palmerston to make representations to France on their behalf with regard to her conduct of the blockades of Mexico and Buenos Ayres, but he refused to do so.⁵ In 1884, when France was blockading the island

¹ Calvo, § 1859.

² Dueroq, p. 114. In a note on p. 69, however, the same author refers this incident to the blockade of Buenos Ayres by France in the same year.

³ Falccke, footnote, p. 37.

⁴ The protest which Russia addressed to Great Britain (B. S. P. 1850, vol. lvi, *Annual Register*, 1850, pp. 279 et seq.) in 1850 against the blockade of Greece was directed against the blockade as a whole, and not in particular against the treatment accorded to the vessels of third states; as a matter of fact, in this case the vessels of third states were unmolested.

⁵ B. S. P. 1839, vol. xlvii, at p. 275: 'Memorials and Correspondence

of Formosa, which was then in Chinese hands, Lord Granville wrote to M. Waddington that 'Her Majesty's Government cannot admit any such novel doctrine as that British ships are liable to capture for entering certain treaty ports of China in time of peace. But they maintain that a state of war exists, and therefore do not deny the right of the French Government to establish an effective blockade of the ports in question.'¹ In other words, a protest would have been made if the operations had merely amounted to a pacific blockade. Again, in the blockade of the coasts of Siam which was instituted by France in 1893, a protest would undoubtedly have been made by Great Britain if the blockade had lasted longer than two or three days. Of the shipping at Bangkok 87 per cent. in tonnage and 93 per cent. in value was British,² and Lord Rosebery was repeatedly urged by merchants and companies trading with those parts³ to protest formally against the French action. That this was not done was probably due to the fact that he was still waiting for definite information when the blockade was raised.

Another blockade in which a protest was made but subsequently withdrawn was that of Zanzibar. This blockade arose out of the obligation to suppress the slave trade, and was really in the nature of a measure of international police. A dhow sailing under the French flag was stopped by the British men of war, and the French consul at Zanzibar protested. Subsequently, however, the French Government informed their consul that they had no objection to the search of their dhows by the English and German admirals under the delegated authority of the Sultan in his territorial waters.⁴

It may, of course, be that, as in the case of Formosa,

relative to the Protection of British Commerce against the Blockades of Mexico and Buenos Ayres instituted by the Governments of France.'

¹ B. S. P. France, No. 1 (1885), p. 4. Letter of November 11, 1884.

² B. S. P. Siam, No. 1 (1894), p. 82.

³ B. S. P. Siam, No. 1 (1894).

⁴ B. S. P. Africa, No. 1 (1889), p. 40; vide also notice, p. 65, reproduced Appendix, p. 179.

protests have failed to be made because the states whose ships have been interfered with believed that the operations carried on were those of war, and that therefore the interference was justifiable by the rights of belligerents. But, whether this be so or not, the fact remains that third states have in the past failed to protest against the exercise of jurisdiction over their vessels by a state conducting a pacific blockade, and, seeing that this failure is not confined to one solitary instance, but has extended over a number of cases, it may well be argued that a rule allowing a state conducting a pacific blockade to have some jurisdiction over the vessels of other states entering the waters of the blockaded state is in course of formation. Unless a rule of International Law is agreed on at some united conference, such as that of Paris or The Hague, it must always be a question of gradual growth, and it is often doubtful whether it has been sufficiently observed to have actually become recognized. Such is the position of the practice of interfering with the vessels of third states during a pacific blockade to-day. Additional weight to the arguments for its reception is, however, undoubtedly given by the fact that several of the most important maritime powers¹ have, in conducting pacific blockades, themselves interfered with the vessels of third states, and may therefore be considered as debarred from denying that such conduct is permissible. As a matter of fact, this would not probably prevent a state protesting if it thought its interests were endangered, as states are not always constant in their adherence to one particular point of view; but it would certainly greatly lessen the force of the protest.

Coming now to the actual practice of states, we find that in six blockades the vessels of third states were not made liable to capture and detention, while in three more, namely, those of Carthage by France in 1834, San Salvador by France in 1842, and Bolivia by Chili in 1879, there is no definite information as to the method in which they were treated. In all other cases it would appear that the

¹ Viz. Great Britain, France, Germany, Italy, Russia and Austria-Hungary.

vessels of third states were at least liable to be turned away from the blockaded ports.

In only one case does it appear that any vessels belonging to a third state were sunk. During the blockade of Crete by the Great Powers, in 1897, an Austrian warship sank a schooner that was engaged in disembarking arms for the insurgents,¹ while on another occasion the British warship *Dryad*, after removing the cargo of flour from three boats she had captured, sank them, owing to the bad weather preventing her taking them into harbour. Such action cannot be too strongly condemned. The recent Russo-Japanese war has presented several cases of the sinking of neutral vessels² before condemnation by a prize court, and opinion generally has been unfavourable to the assumption of such a right. The property in neutral goods and ships is not definitely transferred until a competent court has declared that the capture was justifiable, and therefore if a neutral ship cannot be brought in for adjudication it ought to be released.³ If this is so in time of war with regard to neutral vessels, much more ought the rule to be followed with regard to the vessels of third states when, nominally at any rate, peace prevails.

In three blockades vessels of third states were condemned by prize courts set up by the blockading states. Before the blockade of Mexico, in 1838, became warlike, some forty-six vessels belonging to various third states were seized by the French warships and condemned for breaking the blockade.⁴ The Hanse towns of Bremen, Hamburg and Lübeck protested against this condemnation, but without effect.⁴ Vessels belonging to third states were also captured and condemned during the two blockades of the La Plata,⁵ but the first of these was probably an operation of war, and the second has been so considered by several

¹ B. S. P. Turkey, No. 9 (1897), p. 26.

² e.g. the case of the *Knight Commander*.

³ Hall, *International Law*, 5th ed., pp. 734-5; *The Zee Star*, iv Rob. 71; *The Felicity*, ii Dodson, 383; *The Leucade*, Spinks, 211.

⁴ Dueroeq, p. 114.

⁵ Vide *infra*, pp. 90 and 103.

writers, in spite of the declaration of the French Conseil d'État to the contrary.¹ The published notices with regard to the blockades of Nicaragua² in 1842 and Venezuela³ in 1902-3 show that in these cases the vessels of third states were liable to capture and condemnation, though there is no evidence of any having been condemned. Again, the Zanzibar (Prize Court) Order in Council of 1888,⁴ by constituting a prize court to deal with cases arising during the blockade of Zanzibar and giving the Consul-General the jurisdiction of a Court of Vice-Admiralty, clearly shows a similar intention.

In several other blockades the notices are not very clear as to the treatment to be accorded to the vessels of third states. Thus in the blockades of Nicaragua (1844), Buceo (1845), Gaeta (1860-1), Formosa (1884-5) and Siam (1893),⁵ it is declared that the 'measures sanctioned by the law of nations' will be taken against such vessels, or that they will be treated 'in conformity with International Law and the treaties in force.'⁶ But 'the only thing certain about the situation is that International Law supplies no rules applicable to the situation.'⁷ As a matter of fact, however, these expressions probably meant that vessels would be warned of the existence of the blockade, and that if they then attempted to violate it they would be liable to capture and condemnation.

In the blockade of Nicaragua, in 1844, the two foreign vessels which approached the port of San Juan during the blockade were warned and turned away; but in that of New Granada, in 1837, a French brig was detained for a few days, although no previous warning seems to have been given it.

¹ Pistoye et Duverdy, *Traité des prises maritimes*, t. i, p. 390: *Le Comte de Thomar*.

² Vide *infra*, p. 161

³ Vide *infra*, p. 183.

⁴ *L. G.* December 21, 1888.

⁵ Of these the blockades of Formosa and Gaeta (the latter at any rate after the notice to the powers) should properly be considered as warlike.

⁶ For actual text vide the notices in Appendix.

⁷ *Law Times*, November 1, 1884.

The blockades of Crete and Zanzibar are in many respects analogous. In both a portion of the dominions of the reigning Sultan was in more or less open rebellion, which he was practically powerless to subdue. In the one case the Sultan of Turkey wished to put down the insurgents in order that the island of Crete might be peaceably and quietly governed, and in the other the Sultan of Zanzibar, under the pressure of Great Britain, wished to put down the slave trade and the importation of arms which made it possible. In both the blockade was instituted by the blockading states with the consent of the nominal sovereign of the district blockaded. In both the check on commerce was not universal, but only extended to a particular class, and in both again the object was to secure a different condition of affairs, which the reigning monarch was perfectly willing, but powerless, to bring about. In these cases interference with the limitations of the commerce of other states was not great and was confined to what was necessary for the successful carrying out of these measures of international police.

In view of the diversity of practice described above, it is difficult to say that any general agreement has been arrived at as to the treatment which should be accorded to the ships of third states. It may, however, be said that while they have been, as a general rule, interfered with to some extent, that interference has rarely gone beyond detention, and the only cases of actual confiscation took place more than fifty years ago, when the practice of pacific blockade was of recent growth, and when the basis on which it could be justified had hardly been realized. Detention, on the whole, seems to have been the fate of those vessels of third states which did attempt to violate pacific blockades in the past, although in a few cases, like that of Nicaragua in 1844, they were merely turned away. It is clear, therefore, that practically the same result is arrived at by a consideration of the actual treatment of such vessels in the pacific blockades of the past as from the examination of the amount of interference which may theoretically be justifiable, and it may, therefore, be laid

down with some degree of assurance that the proper treatment of vessels of third states which attempt to violate a pacific blockade is in any case to turn them away, and perhaps also to detain them until the ends for which the pacific blockade was instituted have been attained and the blockade itself raised.

Several minor questions with regard to the treatment of such vessels remain to be considered. In an ordinary warlike blockade it has become customary to allow certain days of grace for neutral vessels to clear from a blockaded port. Hall¹ says: 'The period which is allowed for the exit of ships is usually fixed at fifteen days, and during this time vessels may issue freely in ballast or with a cargo bona fide bought and shipped before the commencement of the blockade.' A pacific blockade should certainly not be more stringent, and accordingly it is found that in several cases days of grace have been allowed. In the blockade of Mexico by France fifteen days were allowed, a period which was extended to forty-two days in the blockade of Buenos Ayres the same year. In the second blockade of La Plata eleven days were allowed in the case of the port of Buceo and fifteen for Buenos Ayres, the latter period being subsequently extended to thirty-seven days. Three days only were allowed by France in her blockades of Formosa and Siam; but in the latest blockade—that of Venezuela—a period of fifteen days was granted. In the case of Gaeta eight days' notice of the commencement of the blockade was given, and it only applied to contraband of war. Even then it appears that, after the protests of the captains of certain vessels, British and American ships were not interfered with. Subsequently, when notice of the blockade was officially given by the Sardinian Government, no days of grace were allowed and the blockade was universal.² Probably, however, it did not actually affect any vessels and was of short duration. With regard to the other pacific blockades, six, it will be remembered, did not apply to the vessels of third states, while those of Crete and Zanzibar applied only to a particular kind of traffic. In none of these

¹ 5th ed., p. 707. ² Vide *infra*, pp. 114-7, and Appendix, p. 171.

cases, therefore, would any declaration as to days of grace be required. In the case of the two blockades of San Juan de Nicaragua, it is probable that there was no foreign shipping in the harbour;¹ while the blockade of New Granada by Great Britain, in 1837, was extremely short, and, so far as can be ascertained, only applied to inward-bound vessels. This leaves the blockades of Carthagena and San Salvador by France and Bolivia by Chili as to which no information is available. It may, therefore, be laid down that it has been customary in pacific blockades to allow the vessels of third states lying in a blockaded port certain days of grace for their departure. The usual term has apparently been fifteen days.²

The recent blockade of Venezuela was the occasion for an innovation which, it is conceivable, may be followed in the future. Vessels which had before the notification sailed for Venezuelan ports had a certain period, varying with their port of departure and according as they were steam or sailing vessels, allowed them to enter such ports and discharge.³ This seems a very reasonable arrangement, and one which is likely to do much to reconcile third states to the rigour of a blockade. It may be contrasted with the conduct of the blockade of Nicaragua in 1844, which was instituted because the three principal cargoes of the year were just expected to arrive.⁴

In only three cases has any exception been made with regard to mail-packets. They were allowed free entry into the ports when the coasts of Mexico were blockaded by France in 1838, while in the blockade of Buenos Ayres, in the same year, the British representative was informed that

¹ In 1844 the three principal cargoes of the year were expected just as the blockade was instituted.

² Bulmerincq, pp. 578-9.

³ But Appleton's *Annual Cyclopaedia*, 1902, p. 829, notes the case of the American merchantman *Caracas*, which had started on a voyage to La Guayra and had been permitted to enter that port, and then, before she had discharged half her cargo, was compelled to leave on December 23 by the German naval forces.

⁴ Report of J. Bainbridge to Commodore Sharpe, C.B., dated April 26, 1844. P. R. O. Bundle 5542.

' Her Majesty's branch packets conveying the mails between Rio de Janeiro and Buenos Ayres would meet with no interruption from the blockading squadron upon the condition that the commanders of the said packets should declare upon their word of honour that they are not bearers of any merchandize (*sic*) subject to Custom House duties.'¹ The third instance is that of Siam, in 1893, where the French admiral announced : ' I have ordered the cruisers which are guarding the line of blockade to allow mail-steamers from Europe to approach as near as the anchorage of Koh-si-Chang, where they will have to hand over their mails to the French minister, who is willing to undertake to have them transmitted to you by the quickest means.'²

In a warlike blockade ' the right possessed by a belligerent of excluding neutral ships of war from a blockaded place is usually waived in practice as a matter of international courtesy'.³ The only occasion on which such an exemption was specifically notified in the course of a pacific blockade occurred in that of Mexico by France, in 1838,⁴ while in view of the fact that it was announced that warships were subject to the three days' grace⁵ which was allowed to vessels in the blockade of Siam in 1893, it may be inferred that in that case the French admiral intended to subject them to the ordinary rules of the blockade.

¹ *L. G.* June 22, 1838, and vide Appendix, p. 161.

² *B. S. P. Siam*, No. 1 (1894), p. 174, and vide Appendix, p. 182.

³ Hall, 5th ed., p. 711.

⁴ Ducrocq, p. 113.

⁵ *B. S. P. Siam*, No. 1 (1894), p. 167, letter of French admiral covering notice of blockade

CHAPTER VII

CONCLUSIONS

IN the preceding chapters an attempt has been made to estimate how far the practice of pacific blockade has been accepted as an integral part of International Law. The results of that investigation may perhaps best be summarized in the following series of propositions :—

1. Any state or states may blockade the coasts and ports of another state in time of peace to coerce the latter into acting in accordance with the wishes of the blockading state or states.¹ If the state whose coasts or ports are blockaded is not prepared to regard the blockade as an act of war, the blockade is termed pacific.

2. It is usual to warn the state to be blockaded of the impending blockade.

3. If vessels flying the flag of any state other than those blockading or blockaded are to be interfered with in any way, notice of the blockade must be given to the state whose flag they fly. It is also usual to give a separate warning to each particular vessel before any action, other than that of turning such vessels away, is taken with regard to them.

In such cases, vessels flying the flag of any state other than those blockading or blockaded, which are in the port blockaded at the time of the institution of the blockade, must be given a reasonable time to leave such port without interference from the blockading squadron.

4. The blockading state may treat vessels flying its own flag in any way it thinks best.

5. It is desirable that the blockade should be effective.

6. The blockade need not be universal, but may be con-

¹ This must now be read subject to the provisions of the 'Convention respecting the Limitation of the Employment of Force for the Recovery of Contract Debts', which embodies the 'Drago' doctrine, and was agreed to at the second Hague Conference, 1907. [B. S. P. Miscellaneous, No. 1 (1908), pp. 64-68.]

fined to some particular commodity or commodities, or to the vessels of the state blockaded.

7. As a general rule all vessels flying the flag of the state blockaded, which have been seized during the blockade, must be handed back on the raising of the blockade; but—

(a) Where the demands made on the state blockaded, being of a pecuniary character, have not been satisfied, such vessels may be retained to satisfy them.

(b) Where any damage has been done to such vessels there can be no claim against the state or states blockading to make good such damage.

(c) In exceptional cases, where the blockade is directed against some practice, such as slavery, which is contrary to international morality, any vessels seized which are engaged in such practice may be condemned.

8. Vessels flying the flag of any state other than those blockading or blockaded may not be interfered with except—

(a) In cases where the blockade has been instituted by the Concert of Europe.

(b) With the consent of the state whose flag they fly, such consent to be implied in the absence of any protest from such state.

9. Where, under the exceptions to the last preceding rule, interference with vessels flying the flag of a state other than those blockading or blockaded is permissible, such interference must not go beyond the detention of such vessels during the existence of the blockade.

It is believed that these propositions faithfully represent the present rules of International Law on the subject, but it cannot be said that anything like a final settlement has yet been reached. At present it is policy and not law which guides third states in their attitude towards a pacific blockade, and if such blockade is detrimental to their interests they are not likely to allow the blockading state a free hand. Disputes, therefore, are bound to occur, but with each, a nearer approach should be made to the formulation of a definite code of rules on the subject. It is, perhaps, a little difficult to foresee exactly on what lines the practice

will eventually crystallize, but the tendency undoubtedly is to make pacific blockades apply to all vessels, to whatever state they belong. That this would be an invasion of the rights of third states as at present understood, is undoubted, but they have been slow in the past to insist on their rights in this respect, and they would probably gain more than they lost by allowing sufficient interference with their vessels to make the blockade effective. It is certainly desirable, in the interests of peace, that states should not be prevented from making use of this method of settling international difficulties. But such a result would inevitably follow from limiting the scope of a pacific blockade to the vessels of the states blockading and blockaded. It is probable, therefore, that, as the disinclination for war becomes greater, the rules of neutrality stricter, and the hegemony of the Great Powers more pronounced, some definite compromise will be reached on this point. Such a compromise might well be that third states should allow vessels flying their flag to be detained if they attempted to enter the blockaded ports. By so doing they would confer on the blockading state a right of interference with their vessels which strictly it had not formerly possessed, but on the other hand it would guard such vessels from capture and confiscation, which might well have been their lot had the blockading state been forced to go to war instead of using a pacific blockade to gain its ends.

PART II

HISTORICAL ACCOUNTS OF THE VARIOUS BLOCKADES

GREECE, 1827¹.

THE Greek movement for independence started in 1821, but no active intervention of the other powers took place until 1827, although there had been a considerable amount of private assistance before that date. The general condition of affairs could scarcely have been worse. 'Piracy, the consequence of the strife which has desolated during five years the provinces of Greece, is rife in the Archipelago. The security of navigation is destroyed. No flag is respected. Ships are seized, cargoes are pillaged; the crews, often ill-treated, esteem themselves happy if they escape with their lives. Finally, the squadrons of several Governments, maintained at great cost in the waters of the Levant, do not suffice to protect commerce.'²

After the death of the Emperor Alexander of Russia, on December 1, 1825, Great Britain and Russia entered into a protocol which was signed at St. Petersburg on April 4, 1826.³ It was agreed that a suggestion should be made to the Porte that Greece should become a tributary dependency with internal freedom. This mediation was refused by the Porte in a manifesto dated June 9, 1827.⁴ The other powers were then asked to join in coercing the Porte.

¹ (a) B. S. P. 1863, 'Correspondence with Russia relative to the affairs of Greece previous to the conclusion of the treaty of July 6, 1827'; B. S. P. 1828, vol. xiv; Falcke, 62-82.

(b) *Annual Register*, 1827, pp. 310 et seq.; Barès, pp. 18-25; Bulmerincq, p. 570; Calvo, §§ 1833 and 171; Ducrocq, pp. 92-100; Hautefeuille, *Des droits et des devoirs des nations neutres*, 3rd ed. (1868), pp. 259-60.

(c) Finlay, *History of Greece* (1877), vol. vii, pp. 1-27.

² B. S. P. 1863, op. cit., p. 12. Letter, Mr. Stratford Canning to Reis Effendi, June 13, 1826.

³ Ibid., p. 5.

⁴ B. S. P. 1828, xiv, p. 1042.

Austria and Prussia declined, but France agreed to act in conjunction with Great Britain and Russia, and entered into a protocol with those powers, which was signed at London on July 6, 1827. This bore the title 'Treaty for the Pacification of Greece.'¹ By it the three powers agreed to offer their mediation to the Porte; while an additional secret article provided that if the Porte did not accept the mediation within one month 'the said High Powers intend to exert all the means circumstances may suggest to their prudence for the purpose of obtaining the immediate effect of the armistice of which they desire the execution by preventing as far as possible all collision between the contending parties',² and that they would transmit to their admirals 'conditional instructions in conformity to the arrangement above declared'.

Mediation was offered in accordance with this treaty. It was rejected by the Porte, but accepted by the Greeks in August, 1827.³ Thereupon a fresh note was presented by which the three powers declared that they would take the necessary measures to enforce a suspension of hostilities, but without in any way interrupting the friendly relations subsisting between themselves and the Turkish Government.

On September 10 a communication was addressed to the consulates that orders would be sent immediately to the commander of the allied squadrons to act on the regulations already laid down, and that if any Turkish or Egyptian vessel endeavoured to send supplies or succour by force to the Morea the attempt was to be resisted by force.

The Egyptian fleet of ninety-two sail, with five thousand troops on board, had, in the meantime, arrived at the Morea. The Turkish commander, Ibrahim Pasha, was informed by the English commander of the negotiations that were pro-

¹ B. S. P. 1863, op. cit., p. 7; Hertslet, *Treaties*, vol. iv, pp. 304-13.

² Count Nesselrode, in a letter to Prince Lieven, June 21, 1827 (B. S. P. 1863, op. cit., p. 26), had mentioned as the ultimate resort of a graduated series of coercive measures the 'union of the squadrons of the contracting powers with the object of preventing all help of men, arms, or of Egyptian or Turkish vessels from arriving in Greece or in the Archipelago'.

³ B. S. P. 1828, op. cit., p. 1048.

ceeding, and told that he would be allowed to enter the bay of Navarino without molestation, but that if any of his vessels subsequently ventured out they would be driven in again.

On September 19 Ibrahim sent out a small squadron, but this was immediately turned back by Sir E. Codrington, and Ibrahim then agreed to await orders from his master the Sultan. The French squadron arrived on the 21st, and a few days later Ibrahim met the French and English admirals in a conference at which a sort of armistice for twenty days was arranged, including an agreement for Turkish transports to leave the Dardanelles regularly with provisions under the convoy (alternately) of English and French ships of war. The two squadrons then sailed away to revictual, having left a couple of vessels to watch the Turkish fleet. Ibrahim again ventured out on September 30, but was again turned back by Codrington, who returned for the purpose.

Meantime there were constant negotiations and conferences at Constantinople, but the Porte kept a stubborn silence, and Ibrahim mercilessly put down the insurrection on land with fire and sword. The Russian admiral arrived on October 18, and a conference was immediately held between the three admirals as to the best method of carrying out their rather indefinite instructions to secure the pacification of the peninsula. They saw that if they merely blockaded the coast Ibrahim would be at liberty to continue his ravages in the interior. They therefore decided to enter the bay with their fleets and force Ibrahim to stop the incursions, believing that he would yield without making any resistance.¹ Accordingly, on October 20, the three squadrons proceeded to take up their anchorage in the bay of Navarino. Orders were given that not a shot was to be fired unless they were opposed. But as they were entering the bay the Turks appear to have started firing on a small boat carrying messages, and in spite of attempts to stop the fighting the battle soon became general without any apparent plan or design. In four hours the Turkish

¹ *Moniteur*, November 4, 1827, and cf. Barès, pp. 18-25.

and Egyptian fleets disappeared with a loss of from seven to eight thousand men. The French lost forty-three killed and the English seventy-five, besides one hundred and ninety-seven wounded, while the Russians, being in the rear, suffered the least. Several of the English battle-ships had to be sent home to England for repairs.

In spite, however, of this occurrence, Turkey committed no warlike act, and the ambassadors of the allied powers still remained at Constantinople for some time. It is true that an embargo was placed on foreign vessels at the Golden Horn, but this was as much in their interest as in that of the Porte, and no disorder resulted. In spite of the sarcastic remark of the Reis Effendi, in reply to the protestations of friendship of the foreign powers, that 'c'est absolument comme si, cassant la tête d'un homme, je l'assurerais en même temps de mon amitié',¹ it is fairly evident that no state of war existed, but that the whole proceedings came within the international meaning of the term 'pacific'.² No notification of this blockade appears to have been published in the *London Gazette*, and it is not known whether it actually applied to the vessels of third states or not, although Hautefeuille says, 'Ce blocus fut déclaré obligatoire pour les peuples neutres.'³ In all probability, however, the constant struggle since 1821 had resulted in the almost complete disappearance of any neutral commerce from Greek waters and the point is not, therefore, of very great importance.

The battle of Navarino was designated by George IV as 'inopportune', and its result 'a deplorable event'. But it effected the object of the powers. An end was put to the sanguinary struggle in the Morea, and Greece ultimately became an independent state, its independence being recognized on February 3, 1830, by a protocol of the three powers, which was accepted by Greece and the Porte.⁴

¹ Holland, p. 137.

² Bulmerincq (p. 570) writes that the blockade of Greece cannot be justified.

³ He quotes no authority, op. cit., p. 260.

⁴ Bulmerincq, p. 570.

PORTUGAL, 1831¹

In 1831 the usurper Dom Miguel was seated as an absolute monarch on the throne of Portugal. The ordinary rights of foreigners were completely set aside, and the scandalous way in which some of them were treated² caused both Great Britain and France to interfere on their behalf. The demands of Great Britain were satisfied, probably because of the treaty of alliance which existed between the two nations, but no attention was paid to those of France. Accordingly a naval expedition under the command of Vice-Admiral Roussin was dispatched to secure reparation. An ultimatum was delivered on May 19, 1831, demanding the liberation of certain Frenchmen and the payment of an indemnity. Forty-eight hours were given within which to comply.³ The Portuguese Government asked Great Britain to intervene, but this was refused. Nothing having been done to satisfy the French demands, a blockade of the Portuguese coast was instituted, but this was confined to Portuguese vessels.⁴ No notice was given to other powers, and the only notice to the Portuguese authorities was the warning contained in the above-mentioned ultimatum. On July 2 the French squadron pursued a Portuguese merchant vessel as far as Cascale and was fired on by the fort there. The fire was returned and the vessel was eventually cut out by the boats of the squadron.⁵ A few days later two Government vessels, the *Orestes* and the *Urania*, were captured,⁶ and these, with the merchantmen, were sent to France. A fresh demand for satisfaction was made on July 8, and Baron Roussin, in writing to the Portuguese minister, Viscount de Santarem, stated that 'Dans le cas contraire la guerre se trouvant déclarée de fait entre la

¹ (a) B. S. P. 1831, 'Correspondence relative to the French demands upon the Government of Portugal;' Ducrocq, pp. 100-3; Falcke, pp. 43-9.

(b) Barès, pp. 26-8; Bulmerincq, pp. 571-2; Calvo, § 1834.

(c) *Annual Register*, 1831, pp. 444-7.

² Ducrocq, pp. 100-3.

³ B. S. P., op. cit., p. 23.

⁴ B. S. P., op. cit., p. 44.

⁵ Ducrocq, p. 102.

⁶ Ibid.

France et le Portugal, toutes les conséquences qu'elle entraîne peuvent être prévues.'¹

As the Portuguese Government remained obdurate, the French admiral decided to take stronger measures, and on July 11 forced the mouth of the Tagus. The Portuguese fleet was drawn up in line ready to defend Lisbon, but surrendered without firing a shot. The forts, however, opened fire for a short time, and their action resulted in a loss to the French of three killed and eleven wounded.²

Similar terms were now offered to the Portuguese with the following exception, to quote the words of the French admiral: 'Je me réserve seulement, en en recueillant les fruits, d'y ajouter des indemnités pour les victimes de la guerre.'³ The Portuguese Government, after some final hesitation, gave way, and a treaty was concluded on July 14.⁴ The 17th article of this treaty provided as follows: 'The conditions which precede having been settled, the Portuguese prisoners of war shall immediately be restored. The Portuguese merchant ships detained and sent to France since the commencement of these hostilities shall in like manner be restored, the Portuguese Government being burdened with the payment to France . . . of the expenses of sequestration occasioned by the detention of these vessels.'⁵ Article 18 provided for the return of the *Orestes* and the *Urania*, but no mention whatever was made of the Portuguese fleet which had been captured in the mouth of the Tagus.⁶

The French refused to deliver these vessels up, in spite of the Portuguese protests, and finally quitted the Tagus on July 30.

Lord Palmerston took the opinion of the then King's

¹ B. S. P., op. cit., p. 62. ² Ibid., p. 64. ³ Ducrocq, pp. 102-3.

⁴ For the treaty and the decrees carrying it into effect see *Lisbon Gazette*, July 15 and 16, 1831. ⁵ B. S. P., op. cit., p. 65.

⁶ Calvo (§ 1834) states that the treaty stipulated for the return of all ships of war and commerce, while Ducrocq (p. 103) states that these would only be confiscated to the extent of the costs of the expedition. F. de Martens (*Traité de droit international*, French ed. of 1887) states that the Portuguese ships were given back. None of these writers appears to be strictly accurate.

Advocate on the point. After stating the question as follows: 'Do the hostilities which took place in the Tagus, and in the progress of which the Portuguese fleet gratuitously surrendered to the French, entitle France to retain that fleet after having received from Portugal complete satisfaction of all those demands to enforce which the hostilities were commenced?' he replies, The right to detention 'will depend upon the terms of the convention subsequently entered into . . . for those ships, having surrendered after the declaration and during the pendency of hostilities, although they made no resistance, are to be considered as legitimate prize of war, and not as seized by way of reprisals only.'¹

It will be seen, therefore, that the language of both the French admiral and the English jurist would justify the conclusion that France and Portugal were at war. Even Viscount Santarem, the Portuguese minister, in one letter of protest writes: 'It is impossible . . . to admit that a war *de facto* waged by France . . . could be productive of the same consequences as would result from a war *de jure*.'² Later on, however, he says that there was no manifesto, or declaration of war or declaration of blockade.³ As a matter of fact, the probability is that no one had recognized the compatibility of acts of violence with the maintenance of a state of peace. It certainly looks as if the Portuguese Government had determined not to give way till the last minute, and to yield only if actual pressure was put upon them. The surrender of their fleet without firing a shot seems to point to the fact that the Government wished to stop just short of war.⁴ The actual firing on the French vessels may well be explained as the unauthorized

¹ B. S. P. op. cit., p. 79. The opinion, which gives a good summary of the course of events, contains an interesting discussion as to the true nature of reprisals.

² Ibid., p. 72.

³ B. S. P. 1831, 'Correspondence relative to the French demands upon the Government of Portugal subsequent to August 30, 1831.'

⁴ A contemporary account (*Annual Register*, op. cit.), in dealing with these events, makes use of the phrase 'if a war existed', implying that the balance of probability was against such existence.

acts of irresponsible Portuguese officers who could not calmly view the coercive action of the French fleet without taking some action of their own.

On this supposition there seems no reason why the whole occurrence should not be regarded as an early instance of pacific blockade, especially as the vessels of other states were not interfered with, and no notification of the blockade was made to them, as would have been the case had the two powers really been at war.¹

THE NETHERLANDS, 1832-3²

The Congress of Vienna in 1815 united Belgium and Holland into one state. The arrangement was, however, far from popular, owing to their differences in customs, religious belief, and national history. A desire for separation from Holland had accordingly arisen in Belgium, and this was greatly stimulated by the revolution in France of 1830. A congress of the powers was called together at London, and the separation of the two countries was decided on by a treaty, dated November 13, 1831, and signed by Austria, France, Great Britain, Prussia, Russia and Belgium. But as these powers were unable to agree what coercive measures should be taken to enforce the treaty, the London conference was abandoned on October 1, 1832, and the matter left to the individual powers. Great Britain and France then signed an agreement, dated October 22, 1832, that they would use force to carry the former treaty into execution. This resolution was notified to the authorities at Brussels and the Hague, and the evacuation of Antwerp, which was still garrisoned by the Dutch, was demanded, but without success.

As Holland seemed indisposed to yield, Marshal Gerard

¹ Bulmerincq (p. 572), however, writes: 'Ce cas nous apparaît donc encore comme contraire au droit des gens et, en outre, comme un excès de pouvoir non autorisé.'

² (a) Ducrocq, pp. 103-9; Falcke, pp. 82-8

(b) Barès, pp. 29-32; Calvo, § 1835.

with fifty thousand men entered Belgium on November 15, 1832, and laid siege to Antwerp, which surrendered on December 23, after a siege of twenty-four days.

Meanwhile, the two powers decided to force Holland to comply with their requests by restricting its commerce. An embargo was placed on Dutch ships in the ports of Great Britain and France, and this was notified to the Belgian Government on November 13.¹ Besides this, the joint fleets sailed for Holland to place the coasts in a state of blockade. Only Dutch ships were, however, interfered with.² The reply of the Dutch Government to this was a declaration of reprisals published on November 17, by which (Article 1) French and English ships in Dutch waters were given three days in which to leave, and (Article 2) French and English vessels were forbidden to enter Dutch ports until the Dutch vessels should be allowed to enter French and English ports.³ This was carried into effect by preventing English, French and Belgian vessels from entering the mouth of the Scheldt, although the river remained open to the vessels of other nations.

It was distinctly understood that the proceedings were not acts of war. Diplomatic relations were not suspended, the envoys remained at The Hague and the consuls at Amsterdam, Rotterdam and the other principal Dutch ports. It is true that the Belgian Minister of War, Baron Évain, stated that the action of Holland was 'un acte permanent d'hostilités envers les grandes puissances de l'Europe'; but the English Government protested against the use of the expression.

¹ *L. G.* November 7, 1832; for full text vide Appendix, p. 158.

² Barès, p. 31, writes of Admiral de Mackau: 'Il s'abstint avec le plus grand soin des violences nuisant sans utilité au commerce et se borna à capturer les seuls navires sous pavillon hollandais qui essayaient de franchir ses lignes.'

³ Ducrocq, pp. 107-8, from which these details are taken. The text of Article 2 as given by him is as follows: 'Tous les navires naviguant sous le pavillon des deux nations citées plus haut, et qui pourraient arriver de la mer sur le territoire néerlandais, seraient renvoyés et ne seraient pas admis avant que les navires sous le pavillon néerlandais ne puissent, comme auparavant, entrer librement dans les ports d'Angleterre et de France.'

Finally, a treaty was entered into, on May 21, 1833, between Great Britain, France and Holland.¹ By Art. I the two blockading powers agreed to raise 'l'embargo qu'elles ont mis sur les vaisseaux, bâtimens et marchandises appartenant aux sujets de Sa Majesté le Roi des Pays-Bas ; et tous les bâtimens détenus, avec leurs cargaisons, seront sur-le-champ relâchés et restitués à leurs propriétaires respectifs'. The Dutch, on their side, acquiesced in the separation from Belgium, and agreed not to recommence hostile proceedings and to allow the free navigation of the Scheldt. This agreement was ratified on May 29, 1833, and on that day the embargo was taken off, the blockade raised, and the Dutch ships that had been previously seized handed back to their owners.²

CARTHAGENA, 1834

In a letter dated October 27, 1838,³ from Admiral Baudin, the Commander-in-Chief of the French fleet in Mexican waters, to the Foreign Minister of that country, the following passage occurs : 'La conduite que la France tient aujourd'hui envers le Mexique est conforme à celle qu'elle a tenue envers le Portugal, en 1831, envers Carthagène de Colombie, en 1834, enfin, à celle qu'elle tient encore aujourd'hui, envers la République Argentine . . . Dans ces divers états, des citoyens français avaient été victimes de violences plus ou moins graves : la France aurait manqué à ses obligations les plus impérieuses envers ses nationaux, si elle n'eut poursuivi la réparation de ces violences.'

In view of the fact that the blockades of Mexico and Portugal were pacific, and that the blockade of the Argentine was so regarded by France, the only logical conclusion to be derived from this extract is that in 1834 France instituted a pacific blockade against the Colombian port of Carthagena. But as not a single writer on pacific blockade

¹ Hertslet, *Treaties*, vol. iv, p. 351.

² Barès, p. 31.

³ Blanchard and Dauzats, *San Juan de Ulua* (Paris, 1839), p. 259.

mentions this instance, its actuality must be an object of considerable scepticism, and as, even if its existence were beyond question, no details with regard to its conduct are known, it cannot be said to be of any great importance.

NEW GRANADA, 1837¹

On January 20, 1836, as Mr. Russell, the British pro-consul at Panama, was walking in one of the public streets, he was attacked by a certain Señor Justo Paredes, at the head of a crowd of people. Mr. Russell defended himself with a sword-cane, and slightly wounded Señor Paredes, but was subsequently knocked down and severely hurt. For some time afterwards he was very ill, and, indeed, in some danger.² The attack seems to have been inspired by the personal rancour between the parties arising out of a previous bill transaction.³

Mr. Russell was removed from the consulate to the hospital under a military guard, although this involved

¹ (a) B. S. P. 1837, 'Correspondence between His Majesty's Government and the Government of New Granada respecting the imprisonment of Mr. Pro-Consul Russell at Panama.' Falcke, pp. 3-8.

(b) Ducrocq, pp. 109-11.

(c) Steuart, *Bogota in 1836-7*, pp. 255-9 (New York, 1838).

² B. S. P. 1837, op. cit., p. 1. Letter, Mr. Pro-Consul Russell to Viscount Palmerston, dated January 31, 1836.

³ A contemporary account of the affair (Steuart, op. cit.) runs as follows: 'A certain Mr. Russell, British consul for Panama, had a grudge toward a citizen of the place. This he chose to repay by assaulting him with a sword as he passed along the public street in company with a female. The consul was pouring out the lowest abuse when, the police interfering, an alcalde struck Russell a violent blow with his cane, laying open the temporal artery and otherwise severely maltreating him. . . . The conduct of the authorities of Panama, in allowing this alcalde to go unpunished, and taking violent possession of the office and seals of the consulate, were facts in themselves very grievous to be borne by any nation possessing the means of redress.' It 'would have been settled . . . but for the swaggering bullyism and undue haste of the British minister at the capital. . . . Mr. Russell . . . is well known . . . as a low, worthless and dissipated person of no standing whatever.'

an affront to the British flag. He was accused of premeditated assassination and sentenced, under an old Spanish law of 1761, to six years' imprisonment for bearing concealed arms,¹ and to pay the costs of the suit.

After careful investigation into the matter, Lord Palmerston directed the British minister to demand (*inter alia*) the immediate liberation of Mr. Russell, the dismissal of the local authorities concerned, an apology and the payment of the sum of £1,000. The British ships were ordered to co-operate.² The demand was made and refused, and it was then suggested that 'trial' should be made 'of what may be compulsion without being war', and that operations should be confined 'to a rigorous blockade of the Granadian ports'.³ Accordingly a blockade was instituted on January 10, 1837, and notice was given to the British consul on shore.⁴ Four vessels were stopped,⁵ of which one was a French barque,⁶ but no protests were made. 'En douze jours, sans qu'un coup de canon ait été tiré de part ni d'autre, le gouvernement de Carthagène acquiesça aux exigences anglaises.'⁷ Mr. Russell was released after an imprisonment of eleven months and fifteen days and the £1,000 paid.⁸ Directly this had been done the British commodore raised the blockade, and the vessels detained were permitted to depart to their destination.⁹

¹ B. S. P. 1837, op. cit., p. 17. Dispatch, Consul Turner to Viscount Palmerston, dated May 20, 1836; for the actual sentence vide pp. 18-22.

² Ibid., p. 47. Dispatch, Viscount Palmerston to Mr. Turner, dated August 31, 1836.

³ Ibid., p. 92. Letter, Mr. Turner to Admiral Sir Peter Halkett, dated December 11, 1836.

⁴ Ibid., p. 119. Dispatch, Commodore Peyton to Mr. Consul Kelly, dated January 21, 1837; vide Appendix, p. 158.

⁵ Ibid., p. 111. Dispatch, Commodore Peyton to Admiral Halkett, dated January 28, 1837.

⁶ Ibid., p. 120. Commodore Peyton to Mr. Turner, dated January 23, 1837.

⁷ Ducrocq, p. 111.

⁸ B. S. P. 1837, op. cit., pp. 120-1. Official note, Governor of Carthagena to Mr. Consul Kelly, dated January 31, 1837.

⁹ Ibid., pp. 125-6. Dispatch, Commodore Peyton to Mr. Turner, dated February 2, 1837.

MEXICO, 1838¹

The cause of this blockade was the failure of the French Government to obtain redress for various outrages and insults which had been inflicted on French subjects residing in Mexico. An ultimatum was presented on March 21, 1838, which, after referring to (1) the pillage and destruction of property, (2) the violent taking of forced taxes, and (3) various denials of justice and illegal acts to which French subjects in Mexico had been subjected, demanded 'encore une fois et pour la dernière': (1) the payment of 600,000 piastres to be distributed as compensation by the French authorities for the above claims, (2) payment of certain other French creditors, (3) the dismissal and punishment of certain Mexican officers and officials who were responsible for the assassination and wounding of certain French subjects, together with the payment of an indemnity, and (4) reciprocal treatment between the two nations as to agents, citizens, commerce and navigation. It was declared that 'cette présente note est un ultimatum et la détermination de la France qu'il exprime est irrévocable'. Mexico was given till April 15 to signify her willingness to comply with the above demands, failing which, other measures would be taken.² No reply was forthcoming,³ and a blockade of all the Mexican ports was declared by France on April 14, 1838.⁴ The conduct of the blockade

¹ (a) Ducrocq, pp. 111-14; Falccke, pp. 8-21.

(b) Barès, pp. 32-5; Calvo, § 1836.

(c) B. S. P. 1839: (1) 'Papers relating to the occupation of the Fortress of St. Juan d'Ulloa, in the Gulf of Mexico, and of the island of Martin Garcia, in the Rio de la Plata, by the blockading squadrons of France;' (2) 'Correspondence relative to the removal of a Mexican pilot from on board H.M. packet *Express*, by a French ship of war in the Gulf of Mexico;' (3) 'Memorials and Correspondence relative to the protection of British Commerce against the blockades of Mexico and Buenos Ayres, instituted by the Government of France.' Blanchard et Dauzats, *San Juan de Ulua* (Paris, 1839).

² Blanchard et Dauzats, op. cit., pp. 229-50 (full text).

³ Ibid., p. 250.

⁴ *L. G.* June 5, 1838, and cf. note to the American Government, Barès, pp. 33-4; vide Appendix, pp. 159-60.

was subject to the three following rules : (1) Free ingress and egress were allowed to Mexican fishing-boats¹; (2) ships of third powers were given fifteen days to clear; and (3) the ports of Vera Cruz and Tampico remained free for mail-packets, ships of war, and non-commercial vessels.²

At first the blockade was scarcely effective, but afterwards, on the arrival of Rear-Admiral Baudin with reinforcements, this defect was removed.

The blockade caused considerable inconvenience to the shipping of other powers,³ which in the case of Great Britain was accentuated by the delay of the French Government in giving an official notification. Several British vessels which had sailed for Mexico before the commencement of the blockade were turned away and had to return to England,⁴ and in consequence several protests from English merchants and chambers of commerce were made to Lord Palmerston. He, however, refused to make any formal protest to the French Government, and appeared to think that the latter was acting within its rights in turning back the British vessels.⁵ Other countries were not, however, so complaisant, and protests from the Hanse towns of Bremen, Lübeck and Hamburg were sent.⁶

Although an exception was made with regard to mail-packets, it does not seem to have been strictly observed, as on one occasion a Mexican pilot was forcibly taken out of a British packet coming out of Vera Cruz. Apologies were, however, afterwards offered by the French Government.⁷

¹ Cf. Regulation adopted by the second Hague Conference, 1907. [B. S. P. Miscellaneous, No. 1 (1908), pp. 127-32.]

² Ducrocq, pp. 112-3.

³ Vide *New York Daily Express*, May 7, 1838.

⁴ B. S. P. 1837, op. cit., No. 3, e.g. p. 6. The *Mary*, which had left London in February with a valuable cargo, was warned off and had to return; the same fate overtook the *Laurina*, which left Liverpool on March 28 with a cargo of British manufactured goods of the value of £50,000.

⁵ Ibid.

⁶ Ducrocq, p. 114.

⁷ B. S. P. 1839, op. cit., No. 2. Vide also Blanchard et Dauzats, op. cit., p. 305, from which it appears that, immediately before the bombardment of Vera Cruz, the four vessels in the harbour came out with pilots. These included, besides the English packet, an American war vessel and Hamburg

As the blockade did not effect its purpose, further measures were taken, and on November 27, 1838, the French squadron attacked and captured the fort of St. Juan d'Ulloa, whereupon Mexico declared war.¹ The future progress of the blockade, which thus became warlike, does not, therefore, engage our attention.

The design of the French Government in conducting the above operations is sufficiently evidenced by an extract from a note addressed by Count Molé to Earl Granville, dated September 19, 1838: 'It is quite true that Rear-Admiral Baudin has been authorized eventually to employ force and to attack the fort of St. Juan d'Ulloa: ' it ' would be held by us as a simple security ' and ' evacuated on the very day when we should have obtained from Mexico the satisfaction which is due to us '.² Admiral Baudin, also, in writing to the Mexican Foreign Minister on October 27, 1838, says: ' La conduite que la France tient aujourd'hui envers le Mexique est conforme à celle qu'elle a tenue envers le Portugal, en 1831, envers Carthagène de Colombie, en 1834, enfin, à celle qu'elle tient encore aujourd'hui, envers la République Argentine. . . . Dans ces divers états des citoyens français avaient été victimes de violences plus ou moins graves : la France aurait manqué à ses obligations les plus impérieuses envers ses nationaux, si elle n'eût poursuivi la réparation de ces violences. ' ³

According to M. Ducrocq,⁴ some fifty vessels had been seized before the declaration of war by Mexico, and, in accordance with the so-called ' French ' custom, the Mexican ships (to the number of four) were restored, while the remainder, belonging to other nations, were confiscated. This statement, however, does not appear to be quite accurate. According to the treaty of peace between and Belgian merchantmen. The French admiral, having no pilots, and needing them for his attack on Vera Cruz, gave orders to one of his vessels to take the pilots out of the four vessels, which was done.

¹ For text of the ' Loi ' embodying this declaration vide Blanchard et Dauzats, op. cit., pp. 342-3.

² B. S. P. 1839, op. cit., No. 1, p. 1.

³ Blanchard et Dauzats, op. cit., p. 259.

⁴ p. 114 ; vide also *Moniteur*, June 22, 1839.

Mexico and France of March 9, 1839, the fate of these Mexican vessels was to be referred to arbitration.¹ The Queen of England was selected as arbitrator, and by her award of August 1, 1844, she decided that these vessels could be rightly confiscated, and need not be restored to their owners.²

THE ARGENTINE CONFEDERATION, 1838-40³

The dictatorial proceedings of Rosas, who held supreme sway over the Argentine Confederation from 1829 to 1852, were the cause of two distinct blockades, the first by the French alone and the second by Great Britain and France in conjunction.⁴ At the time of the first blockade the

¹ 'La question de savoir si les navires mexicains et leur cargaison séquestrés pendant la durée du blocus et postérieurement capturés par les Français, en conséquence de la déclaration de guerre, devront être considérés comme de bonne prise par les captureurs sera soumise à l'arbitrage d'une tierce puissance, ainsi qu'il est stipulé à l'article 2 du traité de ce jour.' Quoted by Barès, p. 34.

² '1. Que la guerre ayant été déclarée par le Mexique, la France avait acquis le droit de frapper de confiscation les navires qu'elle détenait sous séquestre et de traiter comme prises bonnes et valables les bâtiments de guerre ou de commerce capturés postérieurement à la rupture de la paix, proclamée par le général Santa Anna.

'2. Qu'il n'y avait pas lieu à restitution des propriétés saisies, bien moins encore à des indemnités pécuniaires au profit du Mexique.' Quoted by Barès, p. 35. Ducrocq, p. 74, refers to this decision in a footnote.

³ (a) Falcke, pp. 21-9.

(b) Barès, pp. 35-7; Calvo, §§ 1837 and 187; Ducrocq, pp. 114-5.

(c) B. S. P. 1839: (1) 'Memorials and Correspondence relative to the protection of British Commerce against the blockades of Mexico and Buenos Ayres, instituted by the Government of France; (2) 'Papers relating to the occupation of . . . the island of Martin Garcia, in the Rio de la Plata, by the blockading squadrons of France.' King, *Twenty-four Years in the Argentine Republic*, London, 1846; Pistoye et Duverdy, *Traité des prises maritimes*, 1855.

⁴ Vide *infra*, pp. 98-105. It is curious that several writers state that there was only one blockade, and that this lasted from 1838 to 1850, e.g. Woolsey, *Introduction to Study of International Law*, 4th ed., p. 443; Bonfils, *Manuel de droit international public*, 4th ed., by Fauchille, § 987; Rivier, *Principes du droit des gens*, t. ii, p. 199; F. de Martens, *Traité de droit international*,

president of the Banda Oriental or Uruguay was General Oribe. He emulated Rosas, under whose influence he was, and 'set on foot a series of measures that had drawn down upon him the indignation of the people'.¹ A revolt took place, and Oribe ensconced himself at Monte Video, the capital, where he 'received large accumulations to his means of defence in the shape of ammunition, arms, and even troops from Buenos Ayres'.² The French minister protested against this state of affairs, but without effect. He also made demands on General Rosas for reparation on account of the murder of certain French subjects and the destruction and confiscation of their property.³ The determining cause of the French action, however, was, according to Ducrocq, the promulgation of a law, in 1838, which rendered all foreigners who had resided in the country for three years, and who were carrying on some trade or business, liable to military service.⁴ The French representative protested against this breach of the usual international custom in such matters, but, finding his remonstrances ineffectual, withdrew to Monte Video. Thereupon, on March 28, 1838, the French Government proclaimed a blockade⁵ of the ports of the Republic, and Admiral Le Blanc was sent to enforce it. Foreign merchant vessels in the ports were given till May 10 to leave, and the British packet boats were exempted from the operation of the blockade upon the condition that their commanders declared on their word of honour that they were not bearers of any merchandise subject to custom-house duties. The French made their head quarters at Monte Video, but also seized the small island of Martin Garcia, in the middle of the estuary of the La Plata, as a sort of base.⁶

French ed., 1887, t. iii, p. 167; Barès, pp. 35-7. Hautefeuille (*Des droits et des devoirs des nations neutres*, 3rd ed., 1868, p. 261) goes further by stating that England and France instituted a joint blockade in 1838, and this lasted for ten years. So also Wheaton, *International Law*, 4th ed., by J. B. Attlay, § 293 B.

¹ King, *op. cit.*, p. 321.

² *Ibid.*, p. 323.

³ *Ibid.*, p. 338.

⁴ Ducrocq, pp. 114-5.

⁵ *L. G.* June 22, 1838. For text vide Appendix, p. 161.

⁶ B. S. P. 1839, *op. cit.*, No. 2, p. 399.

The blockade was carried on in a most rigorous manner and applied 'à tout navire, quel que fût son pavillon et quelle que fût la nationalité de son propriétaire'. Lord Palmerston appears to have been approached by British traders with regard to their position, but refused to take any official action in the matter.¹ The most interesting feature of this blockade is the departure from the usual French practice of giving a warning to each individual vessel of the existence of the blockade. On this occasion the French commander entered into an agreement with the Government of Monte Video, dated April 23, 1839, that it should not be necessary for the French squadron to warn individual vessels flying the flag of the Oriental Republic, but that it should be the duty of all such vessels to get their papers viséd either by the French officers of the ships at the 'stations de surveillance' or by the French consul on shore.² In accordance with this agreement, at least twenty-seven vessels were captured and condemned, the majority for remaining for more than sixty-six hours without having their papers viséd.³ Besides these, several packages of merchandise belonging to unknown owners were also condemned.⁴

This blockade has generally been numbered among those that can be called pacific, but it is difficult to see how it can lay claim to this title. M. Guizot, in the Chamber of Deputies, certainly said 'nous faisons un blocus, ce qui n'est pas la guerre complète, la guerre déclarée',⁵ and the French Government generally desired that the proceedings should not be considered as warlike; but the only real test, as has been already pointed out, is the attitude of the state whose coast has been blockaded. In accordance with this test, the blockade must be pronounced warlike, as it appears that the Argentine Government issued letters

¹ B. S. P. 1839, op. cit., No. 1, p. 275.

² Pistoye et Duverdy, *Traité des prises maritimes*, t. i, p. 385: *Le Monte Alègre et La Candelaria*.

³ Ibid., p. 386.

⁴ Ibid., p. 385.

⁵ February 8, 1841. Vide *Moniteur*, February 9, and Pistoye et Duverdy, op. cit., p. 391; and cf. letter of Admiral Baudin cited pp. 82 and 87.

of marque to its subjects to prey upon French commerce, and in at least one instance a vessel bearing the French flag was seized and transferred to Argentine owners.¹ This view of the question is supported by Pistoye et Duverdy, who, on considering the declarations of the prize courts at the time, come to the following conclusion: 'A l'époque du blocus de Buenos-Ayres par les forces françaises, la guerre existait donc entre la France et la République Argentine.'²

Finally, after about two years, an arrangement was arrived at, and on October 29, 1840, a treaty was signed by which Rosas, on his part, recognized the validity of certain of the French claims, while the French had to evacuate the island of Martin Garcia within eight days and raise the blockade they had been enforcing.³ Meanwhile, on October 23, 1838, General Oribe, whose term as president of Uruguay had still eighteen months to run, resigned that office and retired to Buenos Ayres. The result of the blockade was really more or less a failure, as the state of insurrection and unrest at Monte Video and Buenos Ayres still continued, and eventually led to a second intervention in 1845.⁴

SAN SALVADOR, 1842

Mr. Roebuck, in his speech on the Don Pacifico incident in the House of Commons, on June 24, 1850, made the following remarks: ⁵ 'In 1842 it appears that the French Government felt that injuries had been done to some French subjects at the small and insignificant port of San Salvador, amounting in the whole to one thousand dollars. A French ship went in immediately and the captain said,

¹ Pistoye et Duverdy, op. cit., p. 383: *Affaire du Caiman*.

² Ibid., p. 377.

³ Calvo (§ 1837) says that France received the indemnity demanded.

⁴ M. Barès, in his work on pacific blockade, appears to think that there was only one blockade, which started in 1838 and finished in 1849, but he is clearly wrong as to this.

⁵ Hansard, 3rd series, vol. cxii, col. 240.

"If you do not pay, I will at once bombard the town." The people refused; the French consul retired, got on board the French ship, and raised the demand at once to two thousand dollars, and the poor people were at last obliged to pay the money.'

This passage is, however, the only reference to this instance of a pacific blockade which the author can find. The French writers MM. Ducrocq and Barès do not mention it, nor does Professor Holland nor Herr Falcke, while the *Annual Register* and the *Times Index* for 1842 are alike silent on the point. In these circumstances its acceptance as authentic must remain open to some doubt.¹

NICARAGUA, 1842²

Nicaragua is one of a number of small states in Central America. With others it broke away from the Spanish rule in the first quarter of the nineteenth century, and on July 1, 1823, entered with Guatemala, San Salvador, Honduras, and Costa Rica, into a federal republic, called the United Provinces of Central America. This union was not of long duration. It broke up in 1840, and the finishing stroke to its dissolution was given by the murder of General Francisco Morazan, the President of Costa Rica, on September 15, 1842.³ 'After the death of Morazan the

¹ The succeeding account of the blockade of Nicaragua and the default of Salvador in complying with the British demands therein mentioned, point to the general unrest in Central America at the time, and the undoubted possibility of such an occurrence as the one mentioned by Mr. Roebuck having taken place. The author, however, found no reference to any such blockade in the papers that came under his notice at the Public Record Office.

² (a) P. R. O. Nos. 5523 and 5524.

(b) B. S. P. 1847, 'Correspondence respecting the Mosquito Territory.' Falcke, pp. 29-31.

(c) Wells, *Walker's Expedition to Nicaragua* (New York, 1856); Squier, *Nicaragua* (New York, 1852), and *The States of Central America* (New York, 1858), pp. 347-444 and 629-64, on the general position of Nicaragua.

³ Wells, *Walker's Expedition to Nicaragua*, pp. 17-18.

states became not only divided in themselves, but amongst themselves : . . . they were . . . reduced to . . . anarchy.'¹ It is not wonderful, therefore, that, with this state of affairs obtaining, the position of Europeans in the various republics was somewhat insecure, and that they were unable to obtain satisfaction from the courts for damage and plunder which they had sustained. The claims of British subjects were taken up by the British representative and applications for satisfaction were made, but refused.² At last, on September 4, 1841, a circular was addressed to the Five Central American States that unless the claims were liquidated by December 1 'Her Majesty's Government will proceed by means of its own to obtain the requisite settlement'.³ At the same time Mr. A. Macdonald, the British representative, wrote to Lord John Russell that 'all amicable negotiations are out of the question', and suggested that three ports should be seized as a measure of coercion.³ On January 4, 1842, the British Foreign Office moved, and in a dispatch to the Admiralty, after rehearsing the claims of British subjects in Central America, requested that the Commander-in-Chief in the Pacific should personally visit the defaulting states and endeavour to get the various matters settled, while the Commander-in-Chief in the West Indies, after getting instructions from the Governor of Jamaica, was to go to Belize for the same purpose. The dispatch then goes on : 'Any measures of hostility to be adopted by the Commander-in-Chief should be preceded on his part by a direct application from himself to the Central American authorities, giving them a stipulated time within which the compensation required by Her Majesty's Government must be paid.'³ These further negotiations were only partially successful, for in a dispatch from the Foreign Office to the Admiralty, dated August 25, 1842, it is stated that 'Vice-Admiral Sir Charles Adam reports that three of the states, namely, Costa Rica, Guatemala, and Honduras, had acceded to the

¹ Squier, *Nicaragua*, ii. 449.

² There is considerable correspondence (unpublished) on these claims : P. R. O. No. 5523.

³ *Ibid.*

demands made upon them, but that the states of Nicaragua and Salvador had refused to do so, and that consequently he had directed the port of San Juan de Nicaragua to be blockaded'.¹ This blockade was instituted on June 17, 1842,² and it was declared that 'ships violating the blockade will be dealt with according to the rules established for the breach of a *de facto* blockade'.³ The blockade applied to all vessels of whatever flag, and the French practice of giving each vessel a separate warning appears to have been adopted. The blockade of other ports was contemplated, but does not seem to have been actually carried out. In giving his opinion on the subject, the Queen's Advocate, J. Dodson, writes to Lord Aberdeen: 'With respect to the ports belonging to the states of Nicaragua and Salvador, in the Pacific Ocean, I think it would be premature to notify the blockade, inasmuch as Sir Charles Adam has merely recommended Rear-Admiral Thomas to proceed in a similar manner with regard to these ports, but it does not appear certain that any blockade has in consequence of such recommendation been actually imposed upon them. . . . The Vice-Admiralty Court in Jamaica is at liberty to condemn vessels for a breach of the blockade of San Juan de Nicaragua unless some special authority should be given to it for the purpose.'³

The total British claim of 14,000 dollars⁴ was eventually paid,⁵ and Sir Charles Adam raised the blockade on December 8, 1842.⁶ No resistance to the blockade appears to have been offered by the Nicaraguan Government, and there can be little doubt that this blockade may rightly be regarded as 'pacific'.

¹ P. R. O. No. 5524.

² *L. G.* August 19, 1842; for the text of the declaration vide *infra*, pp. 161-2. This declaration was also published in the *Belize Gazette* and the Jamaica official paper (B. S. P., 1847, op. cit., p. 72).

³ Unpublished letter, August 18, 1842. P. R. O. No. 5524 (*sic*).

⁴ B. S. P. 1847, op. cit., p. 67.

⁵ Précis of dispatch from Sir C. Adam, dated December 8, 1842, in the *Admiralty Register* at the Public Record Office.

⁶ *L. G.* January 24, 1843. Holland (*Studies in International Law*) states that the blockade continued until 1844, but he is clearly incorrect.

NICARAGUA, 1844¹

The state of affairs in Nicaragua showed no improvement after the blockade of 1842, and it was still an impossibility for British subjects to obtain satisfaction from the courts for their claims. Two cases in particular were notorious. A Mr. Walter Bridge had an estate at San Antonio. This was raided and plundered, on October 23, 1841, by a band of thirty armed men, and considerable damage was done. The men were arrested, and confessed their participation in the outrage, and then, instead of being punished, were set at liberty and rewarded by promotion in the regular army. A note was addressed to the Nicaraguan Government on the subject, but without effect.²

The other case was a gross denial of justice to two Englishmen, Messrs. Jonas Wilson Glenton and Thomas Manning, residing at Leon. Originally they had been partners in some concession with regard to which a person named Solorzano had obtained a judgment against them. This decision was subsequently set aside for fraud but, as in the meantime Solorzano had been acting upon it to the fullest possible extent, considerable damage had been caused to Messrs. Glenton and Manning. They had obtained the delivery of an award against Solorzano, but four years had elapsed without their being able to issue execution, as the Nicaraguan Government took his side. They had 'tried every method prescribed by law', but without avail.³

The British representatives in Nicaragua took up these matters, but were unable to obtain a settlement. Finally, on August 26, 1843, Lord Aberdeen wrote to Mr. Chatfield,

¹ (a) P. R. O. Nos. 5535 and 5542.

(b) Falcke, pp. 29-31.

² Dispatch from Mr. Chatfield to Lord Aberdeen, dated January 16, 1843. P. R. O. No. 5535; the dispatch encloses copies of a letter from Mr. Bridge and of the note addressed to the Government.

³ Dispatch, Mr. Chatfield to Lord Aberdeen, November 30, 1842. P. R. O. No. 5535. This dispatch has eighteen enclosures, in which the whole matter is disclosed.

the British Consul-General in Central America, instructing him to demand compensation for Mr. Bridge and compliance with the demands of Messrs. Glenton and Manning, and to state that in case of non-compliance recourse would be had to the assistance of the fleet to obtain satisfaction.¹ On the same date Lord Aberdeen also wrote to the Admiralty with the Queen's commands that the Commander-in-Chief in the West Indies should proceed to the coast of Nicaragua to obtain immediate redress for the above demands. The dispatch continued: 'In the case of refusal it will be proper to make reprisals by capturing the vessels belonging to the inhabitants of Nicaragua, and, if redress cannot otherwise be obtained, to blockade the port of San Juan;' but the latter measure was only to be used as a last resort.²

The Nicaraguan Government persistently refused to comply with the British demands, and on February 25, 1844, the British vice-consul wrote to Sir Charles Adam: 'Every attempt to induce the Government of Nicaragua to arrange these matters [of Glenton and Manning, and Bridge] has been ineffectual; in fact, nothing short of the appearance of a force at the Boca San Juan and the consequent stoppage of their trade in that quarter will have the desired effect.'³

The next day the vice-consul also wrote to the commander of the *Griffon*,⁴ which had been sent by Sir C. Adam to San Juan with a view to the establishment of a blockade,⁵ requesting him to put the blockade in force. He adds: 'I do not consider it necessary that you should take any measures to make public the blockade beyond the precincts of the port, as I forward a notice to that effect to the authorities of the city of Granada, which is the principal town in that vicinity.' On the same day he also wrote to the Principal Secretary of the Nicaraguan Government, stating that the commander of the *Griffon* had been ordered to blockade the port of 'San Juan del Norte and the coast

¹ Two dispatches of this date dealing respectively with the two cases. P. R. O. No. 5535.

² Ibid.

³ Ibid.

⁴ P. R. O. No. 5542.

⁵ Précis of dispatch from Sir C. Adam in the *Admiralty Register*, P. R. O.

adjacent', which would not be raised until satisfaction had been obtained for the British demands.¹

The letter, however, to the British naval officer, authorizing him to institute the blockade, had, with other letters, been detained by the Government officials.² He was aware of its contents, and knowing also that the three principal cargoes of the year—from France, Genoa and Jamaica respectively—were daily expected, and that if they were allowed to enter the port the blockade would be of little avail, he declared a blockade of the port on March 23, 1844, 'so long as the despatches are withheld.'³ The same day an English merchantman from Jamaica appeared off the port and was warned of the blockade.⁴ The Government now released the dispatches, and on March 30 they reached the British naval officer, who at once made a fresh declaration of the blockade of the port.⁵ It was notified 'that the measures sanctioned by the law of nations will be adopted and executed with respect to all vessels and cargoes attempting to violate the said blockade'.⁶ Notice was sent to the Principal Secretary of the State of Costa Rica,⁷ and apparently also to the Governor of Jamaica, for official publication.⁸

On April 7, the Genoese vessel arrived and was turned away,⁹ and a like fate befell the French vessel. The Consul-General of France requested a relaxation of the blockade in favour of this vessel, but this was refused.¹⁰

¹ P. R. O. No. 5542.

² Unpublished dispatch dated April 26, 1844. Lieutenant J. Bainbridge to Commodore Sharpe, C.B., senior officer at Jamaica. P. R. O. No. 5542.

³ For text of notice to the Commandant of San Juan, vide Appendix, p. 163, and P. R. O. No. 5542.

⁴ For text vide Appendix, pp. 163-4, and P. R. O. No. 5542.

⁵ For text vide Appendix, p. 164, and P. R. O. No. 5542.

⁶ *L. G.* June 11, 1844.

⁷ For text vide Appendix, pp. 164-5, and P. R. O. No. 5542.

⁸ Vide précis of a dispatch from Sir C. Adam to the Admiralty in the *Admiralty Register*, P. R. O.

⁹ Vide dispatch of J. Bainbridge, April 26, 1844, above quoted. For text of the warning to the vessel vide Appendix, p. 165, and P. R. O. No. 5542.

¹⁰ Précis of dispatches from Mr. Chatfield of June 27, and August 14, 1844, to the Admiralty, in the *Admiralty Register*, P. R. O.

Nothing further is known of the blockade, or whether it actually achieved its object, save the bald statement of the British admiral, in a dispatch dated October 2, 1844, that it was no longer in force.¹

In this case, as in the earlier blockade of San Juan, there appears to have been no resistance whatever by Nicaragua, and it can therefore be unquestionably regarded as a pacific blockade.

THE ARGENTINE CONFEDERATION, 1845-50²

The blockade of 1838-40 did little to curb the growing power of Rosas in South American affairs. No sooner had it ended than he began concerting measures with General Oribe to undermine the independence of Uruguay and force it to join the Argentine Confederation.³ As has already been mentioned,⁴ General Oribe had been elected President of Uruguay, but, owing to his dictatorial methods, had been forced to resign on October 23, 1838, with eighteen months of his term of office still unexpired.⁵ After the end of the French blockade he put forward the startling proposition that he was entitled to finish his term of presidency. As the Uruguayan authorities took a different view, Oribe, with the assistance of Rosas, proceeded to invade the Oriental Republic, and soon overran the whole country except Monte Video, which he besieged. Oribe threatened

¹ L. G. November 1, 1844.

² (a) Bustamante, *Los cinco errores capitales de la intervencion Anglo-Francesa en el Plata* (Monte Video, 1849); Falcke, pp. 32-43.

(b) Barès, pp. 35-7; Calvo, §§ 1838-40; Ducrocq, pp. 115-8.

(c) B. S. P. 1846, 'Instructions to Mr. Ouseley, Her Majesty's minister at Buenos Ayres, for his guidance in the joint intervention by England and France between Buenos Ayres and Monte Video;' B. S. P. 1850, 'Convention between Her Majesty and the Argentine Confederation;' King, *Twenty-four Years in the Argentine Republic* (London, 1846); Mackinnon, *Steam Warfare in the Parana* (London, 1848); Poucel, *Les Otages de Durazno* (Paris, 1864).

³ Mackinnon, op. cit., p. 8.

⁴ *Supra*, p. 89.

⁵ King, pp. 338-9.

to put the town to the sword when it was captured, and this was really its salvation, for the resident foreigners, to the number of three thousand, armed, and the British and French commanders landed forces to help in the defence. Monte Video, therefore, held out in spite of the fact that the Argentine navy assisted in the siege by a blockade.

On the establishment of the independence of the Banda Oriental, in 1828, Great Britain and France had guaranteed its position,¹ and therefore were keenly interested in the matter; but their efforts to obtain a cessation of the hostilities had been unsuccessful, mainly, perhaps, through their lack of decision. On August 30, 1842, the British minister, Mandeville, offered his mediation between Buenos Ayres and Monte Video.² This was refused on October 18,³ and on December 16, 1842, a fresh note was presented stating that it was the intention of Great Britain and France to adopt the means necessary to stop the hostilities, and demanding their immediate cessation and the withdrawal of the Argentine troops. This was not, however, followed up, and the subsequent course of the negotiations for some time was marked by weakness and hesitation. No material change in the situation was made until 1845, when Mr. Ouseley was sent out by Great Britain, and M. Deffaudis by France. The British minister was instructed⁴ to endeavour to bring the hostilities to a conclusion. If, however, General Rosas would not suspend hostilities, he was to wait until his French colleague arrived, and then join in an united declaration that if the Argentine army was not withdrawn and the blockade raised, the British and French squadrons would effect that purpose by force. The instructions went on to say that 'it would appear that a blockade of those ports from which the Buenos Ayrean Government are at present in the habit of carrying on communication with the besieging army, more especially that of the Buco, and if necessary

¹ King, *op. cit.*, p. 420.

² Bustamante, *op. cit.*, p. 17.

³ *Ibid.*, p. 19.

⁴ B. S. P. 1846, *op. cit.*, and Bustamante, *op. cit.*, pp. 40-50. The instructions to the French representative were very similar; vide Bustamante, pp. 50-6.

the occupation of the lower waters of the Uruguay, would effectually cut off intercourse between Buenos Ayres and General Oribe's forces, and thereby compel their retreat or dissolution'. No operations by land, except perhaps the seizure of the island of Martin Garcia as a base, were to be entertained, and the objects of the British Government in their intervention were stated to be 'the restoration of peace and a tranquil government to the republic of Uruguay, the removal of pressure from its capital and the re-opening of its ports to foreign trade'. M. Ducrocq, however, ascribes the joint intervention to the refusal of the Argentine Government to give proper securities for the lives and property of foreigners in its dominions.¹ On July 8, 1845, similar notes were presented by the British and French representatives, demanding the evacuation of Uruguayan territory by the Argentine army and the raising of the blockade of Monte Video.² These were followed by other notes on the 18th and 19th, and on the 21st by an ultimatum asking for their passports to be given them on the 31st if these conditions had not then been complied with.³ General Rosas replied with a direct negative on the 29th.⁴ Accordingly, on August 1, 1845, a joint blockade was declared by the British and French squadrons of the port of Buceo and 'of all the other ports of the Oriental Republic occupied by troops under the command of General Oribe'.⁵ On August 3, the Argentine fleet blockading Monte Video was captured by a few small vessels.⁶ This was immediately followed by the seizure of a number of British and French residents in Uruguay by General Oribe.⁷ They were refused passports, and after the allies had seized the port of Colonia, on August 31, were, on September 10, conveyed some forty or fifty leagues to a place called Durazno,⁸ where, in spite of pressing official notes, they were kept for a long

¹ Ducrocq, p. 115. King (pp. 426-7) gives a summary of the numbers of Rosas' victims, which he puts at 22,404.

² Bustamante, p. 63.

³ Ibid., p. 67.

⁴ Ibid., p. 68.

⁵ *L. G.* October 31, 1845. For full text vide Appendix, p. 166.

⁶ Mackinnon, op. cit., p. 9.

⁷ Poucel, op. cit., p. 305.

⁸ Ibid., p. 310.

time, and where some of them died. On September 18 a last effort was made to obtain a settlement, a joint note being presented to Rosas,¹ but without effect. On the 24th² the blockade 'of the ports and coast of the province of Buenos Ayres'³ started. The island of Martin Garcia was again seized as a sort of base,⁴ and the opportunity was taken both by French and British vessels of exploring the waters of the Parana and Uruguay. Merchantmen were convoyed both up and down, but not without some interference, and force had to be used on several occasions to force a passage.⁵ Rosas protested against the action of the allies by a note of December 9, 1845,⁶ and negotiations for a settlement were continued more or less throughout the whole period of the blockade.⁷

Nothing of real importance was, however, effected. Lord Palmerston, writing at the end of 1846 to Lord Normanby, says, 'The blockade has long ceased to retain its original character,⁸ because the commerce of Buenos Ayres goes on as if there was no blockade, excepting only that all goods going to and coming from that port are obliged to be landed at Monte Video and to pay duty there. . . . It is piracy; it is equivalent to stopping neutral vessels on the high sea and making them pay blackmail.'⁹ Or, in other words, Great Britain and France were keeping their fleets in South American waters and spending several millions

¹ Bustamante, pp. 81-9.

² Ducrocq gives September 18, 1845.

³ Bustamante, p. 89, and *L. G.* December 26, 1845. For text vide Appendix, pp. 166-7.

⁴ Cf. the seizure of Mitylene by the allied fleets in November, 1905.

⁵ Cf. Falcke, p. 36; Ducrocq, p. 116; Mackinnon, *op. cit.*, i, pp. 218 et seq., 278-302, and ii, pp. 1-38.

⁶ Bustamante, p. 98.

⁷ It is impossible, in the course of this short account, to follow these negotiations; they are fully dealt with by Bustamante, who gives the full text (Spanish) of the more important notes and suggestions.

⁸ Cf. Mackinnon, p. 9. The blockade 'commenced about the middle of 1845 and perhaps still continues, in name at least, for it never was much else'.

⁹ *Life of Palmerston*, by the Rt. Hon. Sir Henry Lytton Bulwer, edited by the Hon. Evelyn Ashley, M.P., p. 325.

annually in order to maintain an efficient system of customs for the Argentine Republic. It is, of course, true, however, that their presence guaranteed the independence of Uruguay; but they were powerless to obtain that recognition of the rights of their subjects which was deemed necessary. Other diplomatists came out from Europe, first Hood and then Lord Howden for Great Britain, and Count Walewski for France, and on July 15, 1847, the blockade of the ports both of the Argentine and Oriental Republics was raised¹ by Great Britain as the result of an armistice arranged between Generals Rosas and Oribe and the Uruguayan authorities. The blockade by France continued for some time longer, until Baron Gros was sent out with orders to raise it in any circumstances. Accordingly the blockade of the Argentine coast was also raised by France on June 16, 1848.²

'Perfect friendship' was not, however, finally restored until the treaty of November 24, 1849,³ between Great Britain and the Argentine Confederation,⁴ which was followed on August 31, 1850, by a similar treaty between France and the Argentine Confederation, and on September 13, 1850, by an agreement with General Oribe, when the French blockade of Buco terminated.⁵

By the first of these treaties it was agreed that Great Britain should evacuate the island of Martin Garcia and return the Argentine ships of war in its possession, as far as possible in the same state as when captured,⁶ while all merchant vessels with their cargoes taken during the blockade should be delivered back to their respective owners.⁷

¹ Article I, Treaty November 24, 1849; Bustamante, pp. 244-5.

² Falcke (p. 39) quotes Article IV of the French treaty of August 31, 1850: 'ayant, le 16 juin 1848, levé le blocus qu'il avait établi devant le port de Buenos-Ayres'; vide also 'Colección de tratados celebrados por la república argentina con las naciones extranjeras' (Buenos Ayres, Bernheim, 1863).

³ Ducrocq gives November 24, 1848.

⁴ B. S. P. 1850, 'Convention between Her Majesty and the Argentine Confederation'; Hertslet, *Treaties*, vol. viii, p. 105.

⁵ Falcke, p. 41. 'The date of the raising of this blockade is not quite certain, but it cannot be later than September 13.'

⁶ Article I.

⁷ Article II.

Article V of the Treaty affords curious reading, and was apparently inserted as a salve to the *amour propre* of the Argentine Confederation. It seems scarcely credible that it should have been agreed to, but doubtless its insertion was due to the desire to retire at all costs from a fruitless entanglement. It runs as follows: 'It is freely acknowledged and admitted that the Argentine Republic is in the unquestioned enjoyment and exercise of every right, whether of peace or war, possessed by any independent nation, and that if the course of events in the Oriental Republic has made it necessary for the allied powers to interrupt for a time the exercise of the belligerent rights of the Argentine Republic, it is fully admitted that the principles on which they have acted would under similar circumstances have been applicable either to Great Britain or France.'

The blockade applied to all vessels without exception, and several, including British, Brazilian and Argentine vessels, were seized and condemned by the French prize courts.¹ Three nations at least—Portugal, Bolivia and the United States—protested against the blockade,² and complaints were made by British and French merchants to their respective Governments that the blockade had practically caused the destruction of their commerce, and that the situation was aggravated by the refusal of the Argentine Government to pay interest on the loan it had obtained in London. Foreign vessels were given twelve days of grace on the institution of the blockade of Buceo, and fifteen days—subsequently extended to thirty-eight days—in the case of the blockade of Buenos Ayres itself.

In its inception the blockade was intended to be a pacific one, and on the whole it would appear that it retained its peaceful character in spite of the acts of violence which accompanied it. The treaty which concluded it is strong evidence that the Argentine Republic regarded the opera-

¹ *L'Independencia Americana* (Pistoye et Duverdy, *Traité des prises maritimes*, t. i, p. 384); *L'Aurora*, p. 384; *L'Elisa Cornish*, p. 387; the *Fame*, p. 389.

² Falcke, p. 37, in a footnote. He does not, however, adduce any evidence.

tions as an intervention (as every pacific blockade must be to some extent) and not as hostilities. On the other hand, however, Lord Palmerston, in writing to Lord Normanby, speaks of 'the termination of hostilities by sea and by land which have been carried on for some time past on the banks of the Plate'.¹ And further on in the same letter he writes: 'The real truth is, though we had better keep the fact to ourselves, that the French and English blockade of the Plate has been from first to last illegal. Peel and Aberdeen have always declared that we have not been at war with Rosas; but blockade is a belligerent right, and unless you are at war with a state you have no right to prevent ships of other states from communicating with the ports of that state—no, you cannot prevent your own merchant ships from doing so. I think it important, therefore, in order to legalize retrospectively the operations of the blockade, to close the matter by a formal convention of peace between the two powers and Rosas.'²

It will be noticed that Lord Palmerston bases his conclusion that the blockade of La Plata was an act of war on the ground of the impossibility of a pacific blockade, stating that blockade only occurs in time of war. This fact weakens, of course, the remainder of his argument. Moreover, this is one of the very few pacific blockades which have come before the courts. In a case reported in *Pistoye et Duverdy*,³ and cited as '*Le Comte de Thomar*', the head note runs as follows: 'En cas de blocus simple, c'est-à-dire sans déclaration de guerre, les objets réputés contrebande de guerre, saisis sur des bâtiments neutres qui n'ont pas reçu de notification du blocus, ne peuvent pas plus que ces bâtiments eux-mêmes être déclarés de bonne prise.' And in its judgment the court states: 'La saisie sur un navire neutre des objets de cette nature qualifiés de contrebande de guerre, c'est dans le cas seulement où le bâtiment capteur appartient à une puissance belligérante.'

This is practically a statement by the court that no

¹ *Life of Palmerston*, quoted *supra*, p. 326.

² *Ibid.*, p. 327.

³ *Traité des prises maritimes*, t. i, tit. vi, ch. 2, § 2, p. 390.

state of war existed between France and the Argentine Confederation. The facts of the case were that a Brazilian merchant vessel had been seized by the French blockading squadron and taken in for condemnation without having had any specific notification of the blockade. This by French practice prevented any decision to the effect that the ship was breaking the blockade, but as it was found that it was carrying powder and lead, which in case of a war would be contraband, the condemnation of the cargo was demanded. The court, however, decided that it could not be condemned on this ground, because there can only be contraband in case of a war and its seizure can only be made by a belligerent power. Hence, as this would have been contraband if there had been a war, the plain inference of the court's decision is that there was no war existing between France and the Argentine, and presumably, therefore, also no war existing between Great Britain and the Argentine.¹ And hence this blockade may, though with considerable doubt, be reckoned amongst those called 'pacific'.

GREECE, 1850²

The blockade of Greece by Great Britain, in 1850, is usually associated with the name of Don Pacifico, but the

¹ Cf. Ducrocq, p. 117. As a matter of fact the above decision was come to by the Conseil d'Etat, overruling the prize court at Monte Video.

² (a) (1) B. S. P. 1850, 'Correspondence respecting the demands made upon the Greek Government and respecting the islands of Cervi and Sapienza ;' (2) B. S. P. 1850, 'Further correspondence respecting the demands made upon the Greek Government' (vol. lvi, at p. 407) ; Falcke, pp. 49-62 ; Charles de Martens, *Causes célèbres du droit des gens*, 2nd ed., t. v, pp. 395-531.

(b) *Annual Register*, 1850, pp. 279 et seq. ; Barès, pp. 37-8 ; Calvo, §§ 1814-20 and § 1841 ; Ducrocq, pp. 36-8 ; Freeman Snow, *Cases and Opinions on International Law*, pp. 246-8 ; Oppenheim, § 35.

(c) B. S. P. 1850, 'Further correspondence respecting the demands made upon the Greek Government' (four lots of papers with this heading bound in vol. lvi at pp. 799, 827, 833 and 839) ; B. S. P. 1851, 'Correspondence respecting the mixed commission appointed to investigate the claims of M. Pacifico upon the Government of Greece.'

neglect of his claims by the Greek Government was only one out of several causes which led to the adoption of forcible means to obtain satisfaction after the ordinary diplomatic methods had failed. The principal causes of complaint against the Greek Government may be summarized as follows :—

1. Part of the land of a Mr. Finlay, a British subject resident at Athens, had been taken and enclosed in the grounds of the Royal Palace in 1836. All attempts to obtain compensation had been unsuccessful,¹ although there had 'for many years been formal demands of the British Government in behalf of a British subject'.²

2. It was the custom of the Greek Christians at Athens to burn an effigy of Judas Iscariot at Easter time. In 1847 they had been prevented from doing so, and a rumour got about that M. Pacifico, who was a Jew, had caused the authorities to take action. Angered by this belief, on Easter Sunday a Greek mob broke into and plundered his house,³ beat his wife and son-in-law, broke up the furniture, stole money of his own and other people, and destroyed some documents which were stated to form the proofs of a security for a claim of over £20,000 against the Portuguese Government. M. Pacifico was a British subject, having been born at Gibraltar. Accordingly, his claim for compensation, amounting to a total of £31,534 1s. 1d.,⁴ was taken up by the British Government, but without success. It has been suggested that M. Pacifico should first have endeavoured to obtain redress in the ordinary Greek courts,⁵ but, besides the fact that these were far from impartial, there was the further practical difficulty that it was impossible to determine who had composed the mob that had sacked his

¹ B. S. P. 1850 (a), No. 1, op. cit., p. 1. Letter from Mr. Finlay to the Earl of Aberdeen, dated October 18, 1842.

² Ibid., p. 35. Letter dated October 20, 1848. Sir E. Lyons, the British minister at Athens, to M. Colocotroni.

³ Ibid., p. 54. Letter, M. Pacifico to Sir E. Lyons, dated April 7, 1847.

⁴ For details of the manner in which this amount was made up vide *ibid.*, pp. 56–82, and as to the Portuguese claim, pp. 124–31.

⁵ e.g. Oppenheim, § 35.

house.¹ The matter did come before three Greek judges, and the document signed by them shows that it was found as a fact that the assault had actually taken place and considerable damage been done.²

3. Various outrages on natives of the Ionian Islands, which were at this time under the protectorate of Great Britain, had been committed, including the plundering of a trading vessel³ and some boats, and the illegal arrest and flogging by the police authorities of some Ionians at Patras and Pyrgos.⁴ Diplomatic representations and remonstrances were without effect, no effort being made to discover and punish the offenders.

4. The officer and men of a boat of H.M.S. *Fantome* were seized while on shore at Patras, in January, 1848, and taken to the guard-house. The boat's gear was taken by the soldiers, and it was only after the intervention of Her Majesty's vice-consul that the officer and men were released. The outrage was increased by the fact that the Government organ, *Le Moniteur Grec*, published erroneous statements as to the affair.⁵

Repeated efforts to obtain satisfaction for the above claims having proved of no avail, Sir William Parker was ordered to Athens or Salamis with his squadron at the end of 1849, to support a demand for an immediate adjustment of claims, and, failing this, to take such measures as he might find best calculated to obtain the required satisfaction.⁶

On January 17, 1850, an ultimatum was presented that the various claims should be settled within twenty-four hours, or other measures would be taken. On the 18th the

¹ Lord Palmerston, in his great speech in Parliament in defence of his conduct in this matter, said: 'Redress should be sought from the law courts of the country; but . . . in cases where redress cannot be so had—and those cases are many—to confine a British subject to that remedy only would be to deprive him of the protection he is entitled to receive.' Hansard, 3rd series, vol. cxii, col. 383.

² B. S. P. 1850 (a), No. 1, op. cit., p. 58.

³ Ibid., p. 177. Note, Sir E. Lyons to M. Colletti, dated November 10, 1846.

⁴ Ibid., pp. 193-270.

⁵ Ibid., p. 275. Letter, Captain Le Hardy to the Governor of Patras, dated January 10, 1848.

⁶ Ibid., p. 316.

Greek Government vessel *Otho* put to sea in spite of a warning against doing so, and was brought back by a British warship.¹ Other Greek vessels were seized and detained, and in a short while practically the whole of the Greek navy was in British hands.

A blockade was proclaimed of the Piraeus,² Patras,³ and Syra,⁴ and this was subsequently extended to Spezzia, Hydra, and the Gulf of Lepanto.⁵ This blockade only extended to Greek vessels, and even excepted those which had been chartered by foreign merchants before the notification.⁶ Some fifty or sixty vessels were seized at the various ports, but the blockade was not particularly effective in achieving its object, for two reasons. In the first place 'the cargoes of Greek vessels being chiefly the property of foreign merchants . . . few vessels are to be met with whose cargoes and hull can be identified as exclusively Greek',⁷ and in the second place 'every subterfuge has been resorted to, by tampering with the papers of Greek vessels, to exempt them and their cargoes from detention'.⁸

Russia made a strong protest against the action of Great Britain in instituting this blockade. In a letter from Count Nesselrode to Baron Brunow, the Russian ambassador to Great Britain, which the latter was instructed to show to Lord Palmerston, complaint is made of the want of consideration shown by Great Britain in not giving any information to France and Russia, the two powers who had been interested with her in the affairs of Greece since 1827. The letter goes on: 'Europe . . . will decide how far the means that have just been taken were worthy of a great power like that of England towards a weak and defenceless

¹ B. S. P. 1850 (a), No. 2, op. cit., p. 34. Dispatch, Vice-Admiral Sir W. Parker to the Secretary to the Admiralty, dated January 22, 1850.

² Ibid., p. 46. For full text vide Appendix, pp. 167-8.

³ Ibid., p. 100.

⁴ Ibid., p. 101. For text vide Appendix, p. 169.

⁵ Ibid., p. 164.

⁶ Ibid., p. 46.

⁷ Ibid., p. 89. Dispatch by Vice-Admiral Sir W. Parker to the Admiralty, dated January 28, 1850.

⁸ Ibid., p. 117. Dispatch by Vice-Admiral Sir W. Parker to the Admiralty, dated February 8, 1850.

state.’¹ The Russian and Austrian consuls claimed that vessels which had been insured, or as to which bottomry bonds had been entered into, with Russian and Austrian subjects should be exempt from detention, but these claims were disallowed. Flags of other nations were hoisted by the Greek vessels to such an extent that instructions had to be issued that ‘the mere hoisting of the flag of any country by a merchant vessel is no proof of nationality and cannot exempt the master of such vessel from being required to produce his papers’.²

Meanwhile Lord Palmerston had accepted the good offices of France, and Baron Gros was appointed to go out to Greece with the idea of acting, not as an arbitrator, but as a peacemaker between the two nations. Orders were at the same time sent out to the British commander to suspend the coercive measures for a limited time, but to retain all vessels already captured. Accordingly, Sir W. Parker gave orders, on February 24, that no more captures should be made,³ and on March 1 the embargo was withdrawn, but all vessels seized were retained as pledges.

Baron Gros arrived on March 5, and immediately started a series of conferences with the British representative, Mr. Wyse, at which the demands on the Greek Government were discussed. The two negotiators were unable, however, to arrive at any agreement, as Baron Gros refused to allow the Greek Government to give any security for the damage caused to the claims of Don Pacifico against the Portuguese Government or any guarantee against claims for damages arising out of the coercive measures. Baron Gros decided to refer home, and wanted Mr. Wyse to do the same.⁴ Mr. Wyse refused, as he had been merely instructed to suspend the coercive measures for a reasonable time. On April 24 Baron Gros wrote to Mr. Wyse that ‘his efforts’ had ‘failed in obtaining the good result which he was entitled to

¹ *Annual Register*, 1850, pp. 291 et seq.

² B. S. P. 1850 (a), No. 2, op. cit., p. 206. Dispatch, Viscount Palmerston to Mr. Wyse, dated March 16, 1850.

³ *Ibid.*, p. 183. Dispatch to Commander Foote.

⁴ *Ibid.*, p. 314.

expect',¹ thus finally acknowledging that he was unable to bring the parties to suitable terms.

Accordingly, the embargo and blockade were reimposed on April 25, and on April 26 Mr. Wyse sent a statement to M. Londos, the Greek minister,² of the conditions on which alone he would withdraw them, viz. a proper official letter of apology, the payment of 180,000 drachmas for all the British claims except those connected with the Portuguese claims of Don Pacifico, and that the sum of 150,000 drachmas should be deposited as security to await an inquiry into the validity of these latter; further, that there should be a formal engagement not to bring forward or support any claims as to losses or damage owing to the doings of Her Majesty's squadron.

On April 27 these terms were accepted, the money paid over, and the declaration and apology handed to Mr. Wyse. Thereupon the various Greek merchant and Government vessels were released, after a careful examination had been made to see what damage, if any, they had sustained.³ M. Pacifico offered £180 towards repairing any slight damage done during their detention, but this offer was refused.⁴

With regard to the settlement of this matter, both Viscount Palmerston and Mr. Wyse have been accused of bad faith, but from a careful consideration of the documents it does not appear that these accusations can be upheld.

While negotiations were proceeding in Greece between Baron Gros and Mr. Wyse, Viscount Palmerston and M. Drouhyn de Lhys had arranged, on April 9, that if Baron Gros made any reasonable proposal which Mr. Wyse could not altogether accept, the latter was to send it home and meanwhile maintain the *status quo*. Owing to the difficulties of communication, no messenger sent off by Viscount Palmerston after this agreement had been arrived at could have reached Mr. Wyse till April 28, i.e. a day later than

¹ B. S. P. 1850 (a), No. 2, op. cit., p. 358. Letter, Baron Gros to Mr. Wyse.

² Ibid., p. 372.

³ Ibid., p. 381. Dispatch, Vice-Admiral Sir W. Parker to the Secretary to the Admiralty, April 28, 1850.

⁴ Ibid., p. 382.

the acceptance by the Greek Government of the British demands. No such messenger was, however, sent, as meanwhile Viscount Palmerston and M. Drouhyn de Lhys had agreed to settle the matter by a convention in London. Drafts of the convention and of a letter of apology to be given by the Greek Government were exchanged on April 16, and finally agreed to and sent off on the 19th to Mr. Wyse, whom they reached on May 2.¹ In the circumstances it was considered unnecessary to send out details of the first agreement to Mr. Wyse, as it was being superseded by the second; and even if it had been sent out, the arrival of the dispatch would have been too late to prevent the resumption of the coercive measures on April 26.

The other accusation is that the French warship *Vauban* arrived on April 24 with dispatches for Baron Gros, containing the news of the convention arrived at in London,² that Baron Gros communicated this intelligence to Mr. Wyse, and that the latter deliberately refused to act upon it. In the first place, even if news of the convention had been contained in these dispatches, Mr. Wyse was not bound to act on any information not coming from his own Government and properly authenticated; and, secondly, although it is true that the *Vauban* did arrive at Athens on April 24, 'it is entirely and emphatically untrue that he [Baron Gros] made any such communication to me [Mr. Wyse].'³ Baron Gros sent three letters to Mr. Wyse on April 24, but there was nothing about any convention in them, except the following paragraph: 'Lord Palmerston requires some changes in the first draft of convention, which is very incomplete, I confess, but which has been in a singular degree improved as regards English views.' Baron Gros went on to urge Mr. Wyse 'not to wait for a convention which was coming out, but to refer for further instructions'.⁴ These passages are obviously not such as would have been

¹ B. S. P. 1850 (c), No. 1, op. cit., p. 7. Letter, Viscount Palmerston to the Marquis of Normanby, May 19, 1850.

² *Annual Register*, 1850, p. 288.

³ B. S. P. 1850 (c), No. 2, op. cit., p. 1. Letter, Mr. Wyse to Viscount Palmerston, dated May 31, 1850.

⁴ *Ibid.*

written had there been any definite news of a convention, and these letters were the only communications which passed between them. Mr. Wyse did not see Baron Gros between April 21 and May 1.

This point, that Mr. Wyse had resumed coercive measures and forced the Greek Government to comply with the British demands at a time when he knew of the convention agreed to in London, was strongly urged by the French Government at the time, and it was agreed that the Marquis of Normanby should be allowed to go through the dispatches which were sent out by the *Vauban*. He writes that he had been through the dispatches with General De Lahitte and 'can see nothing in them to justify the expression . . . that the essential bases of a convention negotiated in London were at that time known in Athens'.¹ Besides, if it was known there, it is very surprising that the Greek Government did not raise the question at the time, and it does not appear that they did.

As a matter of fact, the differences between the demands made by Mr. Wyse and agreed to by the Greek Government and those included in the convention entered into in London were very slight, the chief being that by the latter the Greek Government would have had to pay 50,000 drachmas more than they actually did.²

Eventually, the agreement entered into by Mr. Wyse was adhered to, with the exception that the question of the damages caused to the Portuguese claims of M. Pacifico was referred for arbitration to a mixed commission appointed by the Governments of France, Great Britain and Greece.³

The commission sat at Lisbon and the French member was appointed umpire. Eventually it issued a unanimous report. The commissioners divided M. Pacifico's claims on

¹ B. S. P. 1850 (c), No. 3, op. cit., p. 1. Dispatch, Marquis of Normanby to Viscount Palmerston, dated June 13, 1850.

² B. S. P. 1850 (a), No. 2, op. cit., p. 377. Dispatch, Viscount Palmerston to Marquis of Normanby, dated May 11, 1850, in which the differences are minutely discussed.

³ B. S. P. 1850 (c), No. 4, op. cit. Letter, Marquis of Normanby to General De Lahitte, dated June 20, 1850.

Portugal into two classes. First, as to loss sustained and services rendered by him during the civil war in Portugal, as to which they found that he had presented a petition to the Cortes in 1839, and were satisfied 'that the various certificates and papers attached to that petition are the originals or certified copies of the most important documents alleged to have been destroyed at Athens'. The second portion of the claims was for salary and expenditure while Consul-General of Portugal in Greece, as to which the commissioners considered that the claims were not 'prejudiced by any such loss, and that he is still able to establish his rights, if well founded, against the Portuguese Government'.

Accordingly, 'taking into consideration the possibility that a few documents . . . may have been lost . . . and the expense he has incurred in this investigation', the commissioners awarded him the sum of £150 for the injury he had received.¹

The details of the facts and diplomatic correspondence with regard to the case of M. Pacifico have been considered at some length on account of the considerable amount of misunderstanding and misstatement which exists on the subject. It is stated in many books by recognized writers on International Law that Great Britain ought to have been ashamed to back up the cause of a man who claimed nearly £30,000 and was awarded £150²; but such a statement is quite erroneous. In the first place, the claim of M. Pacifico was only one out of several which were being pressed by the British Government at the same time; and in the next place the £150 awarded was only with reference to the damage caused to M. Pacifico's Portuguese claims. His other claims were paid by the Greek Government in cash to the extent of about two-thirds of their original amount. Further, with regard to the £150, the commissioners did not value the Portuguese claims at this amount, but said

¹ B. S. P. 1851, op. cit., p. 17.

² e.g. Oppenheim, § 35; Bonfils, *Manuel de droit international public* (4th ed., by Fauchille, 1905), § 988; Holland, p. 135; Barès, pp. 98-9; Wheaton (4th English ed., by Attlay, 1904), § 293 A.

that these claims could be prosecuted by M. Pacifico in spite of the loss of his documents at Athens. Indeed, the Portuguese minister, in a dispatch to Baron Gros, dated March 2, 1850, admitted the liability of the Portuguese Government to the amount of £197 4s. 3d.¹ It is obvious, therefore, that in many respects the conduct of Great Britain in this affair has been maligned. As a matter of fact the method of conducting the blockade might be taken as a model,² as foreign vessels were neither seized nor detained, and only occasionally visited when there was any doubt (which was frequently justified) as to the genuineness of their flag. The Greek Government made no resistance whatever to the blockade, and it therefore deserves the title of 'pacific' both in fact and name.

GAETA AND MESSINA, 1860-1³

In April, 1860, a rebellion broke out at Palermo against Francis II. On May 6 Garibaldi set sail with an expedition of about one thousand men to help the insurgents.⁴ In spite of two Neapolitan warships who ineffectively fired on the troops as they landed, he disembarked his force from two steamers bearing the Sardinian colours, at Messala, in Sicily, on May 11.⁵

Count Cavour stated that this was against the wishes and orders of the Piedmontese Government, while the attitude of the Neapolitan Government may be gauged

¹ B. S. P. (a), No. 2, op. cit., p. 289.

² Bu merincq (p. 522), however, writes: 'Dans ce cas les représailles excédaient la mesure applicable d'après le droit des gens.'

³ (a) B. S. P. 1861, 'Further correspondence relating to the affairs of Sicily' (presented to the House of Lords by command of Her Majesty in pursuance of their Address dated March 1, 1861); Ducrocq, pp. 118-26.

(b) Barès, pp. 38-9; Calvo, § 1843; Oppenheim, § 44.

⁴ B. S. P. 1860, vol. lxxviii, at p. 337, 'Dispatches relating to the departure of a military and naval expedition from Genoa to the kingdom of the Two Sicilies.'

⁵ B. S. P. 1860, vol. lxxviii, at p. 343, 'Correspondence respecting the landing of General Garibaldi in Sicily.'

from the following official dispatch: 'An act of the most barbarous piracy has been perpetrated by a horde of brigands, publicly enlisted and armed in a not-hostile state under the very eyes of the Government and in spite of its promises to prevent it.'¹

Sicily soon fell into the hands of the insurgents, and Garibaldi crossed to the mainland and entered Naples. Francis II retired to Gaeta, where he was surrounded, and on October 6, 1860, a blockade was declared of that port and also of Messina² by the 'Dictatorial Government'. This blockade, which was only directed against what was undoubtedly contraband, was notified 'to the diplomatic and consular body of all powers credited to the King'.³ The British Government, on inquiry, were informed by Cavour 'that His Sardinian Majesty had not ordered or sanctioned the blockade of Messina or of Gaeta'.⁴ They were, however, 'relieved by circumstances of various kinds from taking any decision upon the notification'.⁵ The captain of an American corvette told Garibaldi that he could not admit any interference with American vessels, and accordingly an order was issued that they were not to be stopped; a similar order was obtained in an indirect way with regard to British vessels.⁶ Meanwhile, France had kept several warships before Gaeta as a kind of moral support to Francis II, and this had prevented the blockade being very strict. But on January 19, 1861, France withdrew her ships, as she could find no one to join her in intervening.⁷ On the 18th Francis II had addressed a protest to all the European powers against the acts 'de l'aventurier Garibaldi et contre la scandaleuse et inqualifiable invasion qui, non seulement menaçait le royaume d'une prochaine ruine, mais qui détruisait aussi tous les principes de droit

¹ B. S. P. 1860, vol. lxxviii, at p. 355, 'Further correspondence respecting the landing of General Garibaldi in Sicily.'

² For text of the declaration vide Appendix, p. 170; Ducrocq, p. 120.

³ B. S. P. 1861, op. cit., pp. 15-16.

⁴ Ibid., p. 17.

⁵ Ibid. Lord John Russell to Mr. Elliot. Dispatch, November 17, 1860.

⁶ Ibid., p. 16.

⁷ Ibid., p. 27. Ducrocq, p. 122, gives January 7.

public sur lesquels sont fondées la sécurité et l'indépendance des nations¹. He went on to ask the nations 'de déclarer si elles reconnaîtraient oui ou non les blocus qui allaient être établis sans déclaration de guerre'. No response was made to this. The blockade of Gaeta by Sardinia was notified to the powers on January 20,² 1861, and Gaeta fell on February 13, followed by Messina on March 13.³

It is difficult to define with any degree of accuracy the precise international status of the blockades above reported. At the time of their institution the insurrectionists under Garibaldi had certainly reached that state of organization which would have justified their recognition as a belligerent community and their acts of hostility against the previous sovereign authority as war. If, therefore, there was war between Francis II and the insurrectionists, the fact that the ships of Sardinia-Piedmont took part in the blockade would hardly alter the circumstances and render the blockade pacific; besides which, it is difficult to imagine that one sovereign could be at peace with another who had just assumed the sovereignty of the former's dominions at the request of the population.⁴

With regard to the attitude of the various Governments, M. Calvo writes: 'Les relations entre les cabinets de Turin et de Naples n'avaient pas pour cela cessé d'être pacifiques et le roi de Sardaigne n'en faisait pas moins faire tous les jours, par son ministre, des protestations amicales au roi des Deux Siciles.'⁵ On the other hand, however, M. Ducrocq states that on October 7 Baron Winspeare, the envoy of the Two Sicilies at Turin, left, protesting against the occupation of Sicily; while Lord John Russell, in reply to the protest of January 18, writes: 'The question of the legality of the blockade of Gaeta is one of International

¹ B. S. P. 1861, op. cit., pp. 18-21; Ducrocq, p. 121.

² B. S. P., op. cit., p. 22; vide Appendix, p. 171.

³ Ibid., p. 22; but Ducrocq (p. 121) and Barès (p. 38) give February 15 for the fall of Gaeta.

⁴ On October 21, 1860, a plebiscite in the kingdom of the Two Sicilies offered the crown to Victor Emmanuel: an offer which he subsequently accepted.

⁵ § 1843; and cf. Barès, p. 38.

Law. I conceive there can be no doubt that the King of Sardinia is actually at war with the King of the Two Sicilies, and is now besieging the fortress of Gaeta, where His Majesty King Francis has taken refuge, having been abandoned by his subjects in all other parts of his dominions.’¹ Dr. Oppenheim, the latest writer on the subject, thinks that the blockade was pacific at first, but was subsequently changed into a warlike one.² This view is shared by Professor Holland.³ As a matter of fact, the proceedings were wholly without precedent, and cannot be altogether squared with ordinary international practice, but it seems best to regard the blockade as hostile from start to finish. At first it was the work of the insurrectionists, and if they are not to be regarded as at war with their monarch the operation must be considered as piratical and of no efficacy as a blockade at all. Subsequently it is undoubtedly clear that after the notification of January 20, 1861, the two powers were at war and were so regarded by neutral nations.⁴

BRAZIL, 1862-3⁵

A British vessel, the *Prince of Wales*, was wrecked on the Brazilian coast near Albardao about June 8, 1861. No report of the occurrence was made, but on a rumour of it reaching the British consul he promptly investigated the matter, and found that many crates and barrels ‘were

¹ B. S. P. 1861, op. cit., p. 21. Dispatch to the Chevalier de Fortunato, dated January 31, 1861.

² § 44.

³ p. 137; and vide Wharton, *A Digest of the International Law of the United States*, vol. iii, p. 408.

⁴ Barès considers the blockade warlike.

⁵ (a) B. S. P. 1863, ‘Correspondence respecting the plunder of the wreck of the British barque *Prince of Wales*, on the coast of Brazil, in June 1861; and respecting the ill-treatment of three officers of H.M.S. *Forte* by the Brazilian police in June 1862.’ There are also nine other lots of papers referring to subsequent correspondence with regard to this incident, which immediately succeed the above papers in B. S. P. 1863, vol. lxxiii.

(b) Bulmerincq, p. 573; Calvo, §§ 1820 and 1842.

violently broken open and rifled of their contents' and that 'every case and box had been burst open and robbed'. The seamen's trunks also showed evidence of having been brought ashore safely and then plundered.¹

Of the ten persons on board (including two women) all perished. On a demand for an inquest only four bodies could be produced, and from their appearance and the distance of their place of burial from where they would have been washed ashore, if drowned, and also from the appearance of the boats, there was a strong probability that they had been murdered. Further evidence was forthcoming from the captain and crew of the schooner *Hound*, which was wrecked in the same gale. They 'saw five of the bodies with knife cuts and other wounds, and some of them with their heads battered, their clothes rent and evidence of violent struggles. Three or four had got away a mile or two inland, but were overtaken and killed.'²

Representations were made to the Brazilian Government, but inquiry was burked and a reply given that 'The Imperial Government is in no way responsible'.³

Later in 1862, three officers of H.M.S. *Forte*, while walking on shore in plain clothes, were arrested and kept in a filthy den for forty hours before being released, although the local authorities were informed that those arrested were British officers.⁴

As no reparation was forthcoming for either of these outrages the British minister to Brazil was directed to claim compensation in the case of the *Prince of Wales*, and an apology for the ill-usage of the officers of the *Forte*,⁵ and

¹ B. S. P., op. cit., p. 1. Enclosure in a letter from Consul Vereker to Lord J. Russell, dated June 25, 1861.

² Ibid., p. 13. Letter, Mr. Stephens to Earl Russell, January 15, 1862.

³ Ibid., p. 29. Dispatch, Senhor Tagues to Mr. Christie, dated April 19, 1862, from the Ministry of Foreign Affairs, Rio Janeiro.

⁴ Ibid., p. 51. Dispatch, Mr. Christie to Earl Russell, dated August 7, 1862, with enclosures from Rear-Admiral Warren, Captain Saumarez and the three officers concerned.

⁵ Ibid., p. 81. Dispatch, Earl Russell to Mr. Christie, dated October 8, 1862; this letter contains a good summary of the whole occurrence.

in case of refusal it was 'determined to enforce these demands by reprisal against Brazil'.¹

On the peremptory refusal of the Brazilian Government either to accept responsibility or give compensation, more forcible measures were adopted, and the 'mode of proceeding . . . caused a virtual blockade of the Port of Rio for Brazilian vessels going out from the 31st ult. [December 1862] to the 6th of this month [January 1863]; there was no collision with the navy or forts of Brazil'.²

It was arranged on December 30 that Commander Henry should 'proceed to sea . . . and seize on such Brazilian ships as may be considered necessary as an equivalent for the demands of Her Majesty's Government'.³ His orders were: 'Take care that the ships seized are the property of Brazilian subjects,' and remember that in certain events they 'must be returned to them uninjured'.⁴ The following notification was also given: 'If any vessel seized by Admiral Warren's orders shall contain property belonging to parties who are not Brazilians, the admiral will, on the nationality of the owners being proved to his satisfaction, give every facility in his power for the delivery of the property to the owners without any delay which can be avoided.'⁵

Five vessels were seized and brought in,⁶ but on January 6, 1863, notes were exchanged by which it was agreed that the Brazilian Government should pay compensation for the plunder of the *Prince of Wales*, and that the dispute as to

¹ B. S. P., op. cit., p. 99. Dispatch, Earl Russell to Mr. Christie, November 4, 1862.

² Ibid., p. 313, misprint for 113. Dispatch, Mr. Christie to Earl Russell, January 8, 1863.

³ Ibid., p. 133. Rear-Admiral Warren to Mr. Christie, December 30, 1862.

⁴ Ibid., p. 150. Orders addressed to Commander Henry by Rear-Admiral Warren.

⁵ Ibid., p. 138. Dispatch, Mr. Christie to Acting-Consul Hollocombe, dated January 1, 1863.

⁶ Ibid., p. 142. Dispatch, Rear-Admiral Warren to Mr. Christie, dated June 4, 1863, with an enclosure giving particulars of the size and value of the ships.

the officers of H.M.S. *Forte* should be referred to the arbitration of the King of the Belgians. Accordingly the blockade was raised and the ships restored. Although this blockade aroused a strong feeling of resentment in Brazil, no forcible measures were taken to resist it, and there can be no doubt as to its title to the term 'pacific'.¹ It affords an excellent example of the kind of case in which a pacific blockade may be employed, of the methods by which it should be conducted and of the satisfactory result which may be expected from its adoption.

BOLIVIA, 1879²

Very little is known of the details of this blockade beyond the actual fact of its occurrence. The dispute which led to it arose from the contending claims of Chili and Bolivia to some territory on which there were large guano deposits. The dispute was of long standing. On August 10, 1866, a treaty had been entered into by the two countries to settle it, but no sooner had it been signed than fresh disagreements arose and continued down to the time of this blockade.

The proximate cause of the quarrel was the imposition by Bolivia of certain duties on some Chilean subjects at Antofagasta. Chili protested that this was contrary to the terms of the treaty of 1866, and, at the beginning of February 1879, sent an ironclad to Megillones Bay³ on the pretext of protecting her subjects.

The Peruvian president tendered his good offices to the two nations, and at first it seemed as if the dispute would

¹ Bulmerincq (p. 573) states that the wreckers were Chilean subjects, and that therefore Great Britain had no right to demand compensation from Brazil. In the first place, however, the statement is inaccurate, and in the next, even if it were not, the Government of Brazil was responsible for the preservation of order and justice in its dominions.

² (b) Calvo, § 1844; Fauchille, *Du blocus maritime*, p. 42; Holland, *Studies in International Law*, p. 135; Wheaton, *International Law* (4th ed., by J. B. Attlay, 1904), § 293 B.

(c) *Annual Register*, 1879, pp. 304-5.

³ At this date the Bolivian territory extended to the sea-coast.

be settled. The Chilean president assured the Peruvian representative at Santiago that the ironclad had been sent without any hostile intention, and that his Government would accept mediation. Bolivia, on its part, suspended the imposition of duties for the time being, and consented to arbitration. Fresh fuel was, however, added by Bolivia putting an end to a concession which a Chilean trading company had obtained at Antofagasta on the alleged ground of its non-fulfilment of certain conditions. Chile replied by occupying the district in question with her troops on February 15, but the Chilean chargé d'affaires still remained at La Paz. A second offer of mediation by Peru proved unavailing, as the Chilean Government was informed by Peru of a secret treaty which had been concluded in 1873 between the latter country and Bolivia, and 'by which, according to an official document published in Lima, each republic mutually guaranteed their independence and the integrity of their respective territories against all external aggression'.¹

Further negotiations were broken off. On March 1 Bolivia issued a decree expelling Chileans from the disputed territory and laying an embargo on their property, but by March 20 the Chilean troops were in possession of a large amount of territory, and on April 3 the Chilean chamber voted a declaration of war against Bolivia.² They also formally declared war against Peru.³

It does not, of course, follow that because the declaration of war was only made on April 3 the two countries were not at war previously, but there seems to be little doubt that, at any rate, during the first half of February a state of peace still existed, and that at that time the blockade (if it can be called a blockade) was really 'pacific'. This view, too, is supported by the unanimous opinion of the few writers who do mention this blockade. But, although

¹ *Annual Register*, op. cit., from which most of these details are taken.

² Calvo, op. cit.

³ A notice was contained in *L. G.* April 22, 1879, that Lord Salisbury had received notice on April 7 that Chile had declared war against Peru and Bolivia.

pacific at first, the blockade soon became an act of war, and in this respect resembled the blockade of Mexico in 1838. It is unfortunate that it is not known whether any vessels were seized during this blockade, or, if seized, what became of them ; nor is it known whether any notice of the blockade was given or whether the vessels of third states were subject to it.

FORMOSA, 1884-5¹

By the treaty of Tien-Tsin of May 11, 1884, China agreed with France 'à retirer sur ses frontières les garnisons chinoises de Tonkin'.² This evacuation was to have been completed by June 26, but on June 23 a French column of eight hundred men, who were marching to occupy Lang-Son, were attacked by a Chinese force. A protest was made by France at Peking, in reply to which it was urged that the Chinese text of the treaty differed from that of the French, and that in any case the convention that had been signed had not been ratified and was merely preliminary to a proper treaty.

On July 24, 1884, France presented an ultimatum demanding that Article II of the above treaty should be immediately executed, that an Imperial Decree should be published in the *Pekin Gazette* ordering the Chinese troops to withdraw from Tonkin and that an indemnity of at least ten millions sterling should be paid. This demand was rejected by the Tsong Li Yamen, although the indemnity demanded was reduced to fifty million francs payable in two or three years or eighty million francs payable in annual instalments

¹ (a) B. S. P. 1885, France, No. 1 ; Ducrocq, pp. 129-44 ; French State Papers, 'Affaires de Chine' (1885), pp. 1-15.

(b) Barès, pp. 39-40 ; Bonfils, *Manuel de droit international public* (4th ed., by Fauchille, 1905), § 989 ; Bulmerincq, pp. 579 et seq. ; Calvo, §§ 1845-52 ; *La Revue de droit international et de législation comparée*, t. xvii (1885), article by M. Geffcken, 'La France en Chine et le droit international,' pp. 145 et seq. ; Westlake, *International Law*, Part II, 'War' (1907), pp. 14-5.

² Article II.

of eight millions.¹ On August 1 Admiral Courbet was ordered to occupy the port and coal-mines around Kelung as an 'acte conservatoire'.² He was also ordered to blockade Foochow and the river Min, and to stop the importation of all contraband by seizing any Chinese boats that might try to run the blockade. The idea underlying these instructions was to 'produire la plus grande intimidation possible sans guerre déclarée'. On August 23 Foochow was bombarded, and the arsenal, the defensive works and some Chinese vessels were destroyed.

France then notified the other powers of a blockade commencing October 23, 1884, of 'all the ports and roadsteads of the island of Formosa included between South Cape or Cape Nansha and the Soo-au Bay passing west and north'.³

It was further announced that 'friendly ships will be allowed a delay of three days to effect their loading and leave the blockaded places. Any ship attempting to violate the above-mentioned blockade will be proceeded against in conformity with International Law and the treaties in force.' On this the *Law Times*⁴ remarked: 'But the only thing certain about the situation is that International Law supplies no rules applicable to the situation.'

France agreed with Great Britain not to exercise any right of search or of capturing neutral vessels on the high seas, and Great Britain, in return, refrained from issuing a formal proclamation of neutrality. China, however, protested against the lenient treatment accorded to French vessels at Hong Kong, and, in consequence, the Foreign Enlistment Act was put in force.⁵ 'The new situation thus created' then determined the French 'Government to hasten the time which they would have chosen for claim-

¹ Livre Jaune, 'Affaires de Chine et du Tonkin, 1884-5,' No. 20, p. 17, quoted by Calvo.

² Ibid., 'Affaire du Tonkin, 1885.' Letter of M. Jules Ferry to M. Patenôtre, quoted by Dueroq, p. 133.

³ *Journal Officiel*, October 23, 1884; *L. G.* October 24, 1884. For full text vide Appendix, pp. 171-3.

⁴ November 1, 1884.

⁵ Calvo, § 1851.

ing full and entire exercise of the rights of belligerents as recognized by International Law'.¹

Following this came the announcement in the *London Gazette* of February 13, 1885: 'It is hereby notified for public information that it has been announced to Her Majesty's Government by the Government of the French Republic that it is their intention to exercise, during the continuance of the present hostilities between France and China, the rights of belligerents which are recognized by the law of nations, including the right to search neutral vessels on the high seas for contraband of war.'

It seems fairly clear that the operations on this occasion were regarded by all parties concerned as something more than a pacific blockade and in reality as war.²

Admiral Courbet writes: 'Cette manière de faire la guerre nous est absolument défavorable.'³ M. Jules Ferry is reported to have said, on November 26, 1884, in the Chamber of Deputies: 'Il y avait de très grands avantages à suivre la politique des gages sans déclaration de guerre, à faire la guerre comme nous la faisons sans recourir à une déclaration préalable.'⁴ He then goes on to point out what these great advantages are: 'Cette manière de procéder avait à nos yeux trois sortes d'avantages. Le premier, c'est de laisser la porte ouverte aux négociations; le second, c'est de laisser subsister l'état conventionnel antérieur. Et enfin, il était d'une sagesse élémentaire de ne pas compliquer notre conflit avec la Chine de différends ou de difficultés avec les puissances neutres.' These advantages, however, would hardly arise from the state of war that then undoubtedly existed, although they admirably express what might be expected to follow if a pacific blockade, merely had been instituted. The fact, too, that orders were given

¹ B. S. P. France, No. 1 (1885), p. 11: Letter, M. Waddington to Earl Granville, dated January 29, 1885. Livre Jaune, 'Affaires de Chine et du Tonkin, 1884-5,' No. 3, p. 2.

² Barès (pp. 39-40) considers it warlike; so also Hall (*International Law*, 4th ed., § 121) and Oppenheim (§ 46).

³ Letter to the Minister for Marine, dated from Fouchéou, August 30, 1884.

⁴ *Journal Officiel*, 1884, November 27, p. 245.

to Admiral Courbet to occupy the coal-mines around Kelung is evidence that the French Government considered the blockade to be warlike, and expected that, being at war, they would not be able to use the British coaling stations. Probably M. de Martens, in his *Droit International*, sums up the French position when he says that 'the French Government called a state of reprisals what was in reality a state of war'.¹

On the Chinese side the language of Marquis Tseng, in a communication to Lord Granville,² shows that he recognized that France and China were at war; moreover, China officially asked Japan to observe neutrality,³ and, as Mr. Westlake observes, 'point de belligérants, point de neutres.'⁴

From the English point of view there was no doubt about the matter. Lord Granville wrote to M. Waddington on November 11, 1884, that Her Majesty's Government 'cannot admit that the blockade of the ports of Formosa which has been notified to neutral powers can be considered in the light of a pacific blockade. Actual hostilities have already taken place between France and China on a large scale and of a character which is quite inconsistent with a state of peace.'⁵ And again: 'They maintain that a state of war exists, and therefore they do not deny the right of the French Government to establish an effective blockade of the ports in question, according to the laws of war, and to capture neutral vessels attempting to force it.'⁶

There could be little doubt that this was not a pacific blockade, were it not that M. Calvo, who appears to be strongly opposed to pacific blockades, as they are usually carried out, writes: 'Considéré en soi et indépendamment des règles encore si mal définies du droit des gens, ce blocus

¹ But cf. M. Billot, *Un Diplomate*, 'L'Affaire du Tonkin,' p. 223, who regards the operations as reprisals.

² B. S. P., op. cit., p. 7, dated November 21, 1884.

³ Ducrocq, p. 139.

⁴ *Revue de droit international*, t. vii, p. 611.

⁵ B. S. P., op. cit., p. 4.

⁶ Ibid., p. 8. Lord Granville to M. Waddington, November 26, 1884.

nous apparaît comme une mesure dont, en définitive, l'humanité a profité.

‘ Quelque illégale et surprenante qu’ait été, de la part de la France, dans les circonstances où elle s’est élevée, cette prétention de rester en paix avec la Chine tout en bombardant ses ports et en bloquant ses côtes, il est positif que l’un et l’autre peuples lui en sont redevables d’avoir échappé à toutes les calamités qu’eussent sûrement entraînées les longueurs et les vicissitudes d’une guerre complète si lointaine.’¹

This opinion was probably due to the French bias of the writer, and as the Chinese, who were the proper judges of the question, considered the blockade an act of war, we must conclude that it cannot rightly be termed a pacific blockade.

GREECE, 1886²

At the Congress of Berlin the question of Greece had been brought forward, but no very definite conclusion was arrived at. The powers had recommended the Porte to grant Greece a rectified frontier, and reserved their right of future mediation on the subject. The Turkish delay caused a fierce agitation to break out in Greece, which threatened to culminate in armed conflict. At this point the powers intervened, and on January 25, 1886, the following declaration was made to the Greek Government by Italy, France,

¹ Calvo, vol. iii, p. 543.

(a) B. S. P. 1886, Greece, No. 1, ‘Copies of Collective Notes presented to the Hellenic Government and of the Replies thereto;’ B. S. P. 1886, Greece, No. 2, ‘Copy of a Circular Dispatch to Her Majesty’s Representatives abroad respecting the Affairs of Greece:’ this gives a summary of the progress of affairs up to the start of the blockade; B. S. P. 1886, Greece, No. 3; B. S. P. 1886, Greece, No. 4; Ducrocq, pp. 145–51.

(b) Barès, pp. 40–4; Bonfils, *Manuel de droit international public* (4th ed., by Fauchille, 1905), § 990; *La Revue de droit international et de législation comparée*, t. xviii (1886), article by Rolin-Jacquemyns, pp. 618–23; Calvo, §§ 1853–7, who also quotes *Διπλωματικά Έγγραφα κατατεθέντα εις την βουλὴν ὑπὸ τοῦ ἐπὶ τῶν ἐξωτερικῶν ὑπουργοῦ* (Athens, 1896).

Russia, Germany, Great Britain and Austria-Hungary : ' En vue de l'absence de tout motif légitime de guerre de la part de la Grèce contre la Turquie et du préjudice qu'une pareille guerre porterait aux intérêts pacifiques et notamment au commerce des autres nations, aucune attaque navale de la Grèce contre La Sublime Porte ne saurait être admise.'¹ M. Delyannis, the Greek premier, made an unsatisfactory reply to this note on February 2, 1886, insisting that any interference with Greece would be a violation of its position as an independent state.

France up to this point had been acting with the other powers, but now refused to join in any coercive measures, so that the ultimatum presented to Greece, April 26, 1886, was only signed by the representatives of the remaining five powers. This demanded that Greece should put her forces on a peace footing as soon as possible and give assurances of her intention of doing so within a week.

On May 8, 1886, a declaration was made at Athens by the representatives of the five powers of their intention ' to establish a blockade of the coasts of Greece against all ships under the Greek flag. . . . All ships under the Greek flag attempting to run the blockade will render themselves liable to be detained.'²

A draft of this notice had been sent by the Earl of Rosebery to Sir E. Malet on May 3, 1886, and it appears that the last word ' detained ' had been altered from ' captured ' in deference to the wishes of some of the powers.³

The regulations with regard to the blockade were amplified in a memorandum of instructions to the British commander-in-chief in the Mediterranean : ' Her Majesty's Government, in concert with the Governments of Germany, Austria, Italy and Russia, have established against vessels under the Greek flag blockade of the coast of Greece, extending from Cape Malea to Cape Colonna, thence to the northern frontier of Greece, including the island of Euboea, also

¹ Ducrocq, pp. 146-7 ; B. S. P. 1886, Greece, No. 3.

² B. S. P. 1886, Greece, No. 1, p. 7 ; No. 4, p. 5 ; and cf. *L. G.* May 14, 1886. For full text vide Appendix, pp. 173-4.

³ B. S. P. 1886, Greece, No. 3, p. 125.

comprising on the West Coast the entrance of the Gulf of Corinth.

‘You will give orders to all commanding officers of Her Majesty’s ships under your command to detain every ship under the Greek flag which may attempt to go out from or enter into any of the ports or harbours or communicate with any part of the coast within these limits.

‘Should any part of the cargo on board of such ship belong to any subject or citizen of any foreign power other than Greece, and other than the powers above mentioned, and should the same have been shipped before notification of the blockade or after such notification, but under a charter made before the notification, such ship or vessel shall not be detained.

‘The officer who boards will enter in the log of any ship allowed to proceed, the fact of her having been visited and allowed to proceed: also day and at what place such visit occurred. In order to secure as much as possible uniformity in action on the part of foreign officers acting in concert with Her Majesty’s ships you will communicate these instructions to your foreign colleagues: in each case of detention steps must be adopted as far as practicable to ensure safety of ship and cargo.’¹

It would appear that the number of ships detained under this blockade was about seventy.² The only unsatisfactory incident in the conduct of the blockade was that the Austrians were reported to have carried off the telegraphic apparatus from Skiathos, and also requisitioned some provisions,³ but it is by no means clear exactly what happened, and the incident is subsequently stated in dispatches to have been considerably ‘exaggerated’.

The blockade was stated to have occasioned some scarcity

¹ Enclosed by the Earl of Rosebery in communications to Her Majesty’s representatives abroad: B. S. P. 1886, Greece, No. 4, p. 1. Also, with slight verbal alterations, enclosed in a letter from Sir J. Pauncefote to the Secretary to the Admiralty, dated May 13, 1886: B. S. P. 1886, Greece, No. 3, p. 153.

² B. S. P. 1886, Greece, No. 4, pp. 38 and 81.

³ Dispatch from Baring to Lord Rosebery, B. S. P. 1886, Greece, No. 4, p. 3.

of provisions in various places, and to obviate this the British commander-in-chief was instructed that 'should any actual distress arise in the islands from food being scarce pending the receipt of supplies from the Greek Government you have authority to do all that you think necessary to relieve it, and even special treatment may be granted to vessels carrying provisions under such regulations as you may frame, which are to be sufficiently stringent'.¹ It was, however, quite open to the Greek Government to charter vessels belonging to other powers to convey provisions to any of the islands.

Meantime, M. Delyannis had resigned, and a new cabinet had been formed by M. Tricoupi to carry out the wishes of the powers, and although there was a conflict on the frontier from May 20 to May 24, disarmament steadily proceeded. After a good deal of diplomatic correspondence between the powers, an agreement was reached, and a joint note, signed by the representatives of the powers at Athens, was handed to the Greek Government on June 7: 'In consequence of the official communication of a dispatch from His Excellency [the Greek foreign minister], dated the 19th (31st) May of the present year, respecting the measures with regard to disarmament which have been taken by the Hellenic Government, and in view of the pacific assurances of the cabinet of Athens following this communication, the above-mentioned Governments [the five powers], taking note of these assurances, have the satisfaction of recognizing that in the present circumstances there is no longer need for the prolongation of the rigorous measures to which they have had recourse in the interests of the general peace.

'Consequently the undersigned, in the names of their respective Governments, have the honour to announce to His Excellency the Minister for Foreign Affairs that the officers commanding the combined squadrons have received orders to raise the blockade of the coasts of Greece.'² The

¹ Dispatch, Secretary to the Admiralty to H.R.H. the Duke of Edinburgh, B. S. P. 1886, Greece, No. 4, p. 9.

² B. S. P. 1886, Greece, No. 4, p. 88.

blockade was accordingly raised on June 7, 1886,¹ but a small squadron was left at Suda Bay to see that the wishes of the powers were carried out.

On the raising of the blockade the Greek vessels that had been detained were released, but without any indemnity. The British instructions as to this were quite clear: 'It appears to Lord Rosebery that as soon as the blockade is raised any vessels which have been detained should be released and that all proper facilities should be given to enable them to return to the ports to which they belong. . . . Her Majesty's Government do not, of course, admit any liability whatever to make compensation.'²

No forcible means of opposition were used by the Greek Government during the course of this blockade, and there can, therefore, be no question as to its pacific nature. It is generally held up as a model of what a pacific blockade ought to be.³

ZANZIBAR, 1888-9⁴

The main object of the blockade of Zanzibar was to put down the slave trade and the importation of arms which was largely prevalent in that district.

The German East Africa Company had been granted large concessions by the Sultan, but it found great difficulty in establishing itself on the coast, as the natives disliked being handed over to German rule.⁵ There were a number

¹ B. S. P. 1886, Greece, No. 4, p. 86; vide also Barès, pp. 40-4, who gives June 8; *L. G.* June 29, 1886.

² Letter, Sir J. Pauncefoot to the Secretary to the Admiralty, dated May 22, 1886, B. S. P. 1886, Greece, No. 4, p. 22.

³ e.g. Calvo, § 1859. Geffcken (*Annuaire*, p. 294) comes to the curious conclusion: 'La mesure récente contre la Grèce . . . n'était pas un blocus.'

⁴ (a) B. S. P. 1888, Africa, No. 10; B. S. P. 1889, Africa, No. 1.

(b) Barès, p. 45; Bonfils, *Manuel de droit international public* (4th ed., by Fauchille, 1905), § 990, 990¹; Ducrocq, pp. 151-3.

(c) Appleton's *Annual Cyclopaedia*, 1888, pp. 850-2; 1889, pp. 830-1.

⁵ B. S. P. 1888, Africa, No. 10, pp. 61-7. Report, Colonel Euan-Smith to Marquess of Salisbury, with enclosures, dated September 21, 1888. This report gives a good statement as to the progress of affairs.

of coast disturbances, including the firing on a boat belonging to H.M.S. *Algerine*, flying the British ensign, at Pangani,¹ and also on unarmed boats of the German gunboat *Möwe*.¹ On the other hand, it must be admitted that the German officials did not act with proper tact and discretion: thus in September, 1888, on the report that a man had been fired at in Bagamayo, a party landed, and, attacking the natives, killed no fewer than one hundred and five and wounded many more.² The disturbances were practically confined to the German sphere of activity, but there was great danger of the rising spreading to the British sphere, where concessions had been granted to the Imperial British East Africa Company.³ The position of the missionaries also was one of great danger. Slave-dealing was rampant in the whole district, and the importation of arms and munitions of war to satisfy the needs of the Arab dealers was carried on on a large scale. The Sultan was powerless to stop or prevent this, and therefore consented to the establishment of a joint blockade of the coast by English and German men of war. This was strictly limited to the stoppage of the import of munitions of war and the export of slaves.⁴ Italy agreed to join with the other two powers and sent out a man-of-war to assist,⁵ while Portugal agreed to co-operate with 'a blockade of required extent of Mozambique coast by their own naval forces only in sufficient strength'.⁶ 'Auxiliary steps were taken on the mainland by the Congo State and the Netherlands.'⁷

The blockade was accordingly commenced on December 2, 1888.⁸ The proclamation was contained in the *London Gazette* of December 4,⁹ and also in the *Imperial Gazette*

¹ B. S. P. 1888, Africa, No. 10, p. 46.

² Ibid., p. 68. Dispatch, Colonel Euan-Smith to Marquess of Salisbury, dated September 25, 1888.

³ Ibid., pp. 90-4.

⁴ Ibid., p. 80.

⁵ Ibid., p. 85.

⁶ Ibid., p. 86.

⁷ Holland, p. 140, and cf. Rolin-Jacquemyns, *Revue de droit international*, t. xxi, p. 207.

⁸ B. S. P. 1889, Africa, No. 1, p. 121. For full text of the proclamation by the British and German admirals, vide Appendix, pp. 174-5.

⁹ Vide Appendix, p. 175.

published in Berlin on the same date. Germany directed its ambassadors to announce the fact of the blockade to the various countries to which they were accredited.¹ The Portuguese proclamation was made by Royal Decree at Lisbon, and is contained in the *Diario de Governo* published there on December 7, 1888, and in the *Boletim Official* of December 8, published at Mozambique.² The provisions of this decree 'respecting the trade in arms' were further extended to Lorenzo Marques by a decree of December 22.³ The Italian proclamation is given in the *Italian Official Gazette* of December 19, 1888. With regard to the scope and character of the blockade, it is similar to the other proclamations, but it does not express the fact that the blockade was made by the consent and authority of the Sultan.⁴

That the Sultan did give his consent and authority to the British and German blockade is clearly seen by the proclamation he issued at Zanzibar, the concluding paragraph of which runs as follows: 'Be it known to all men that the blockade is done with our full consent and sanction; and that it will be directed against vessels carrying flags of all nations, but only against the trade in slaves and arms and munitions of war. Ordinary commerce will be in no way interfered with.'⁵

To add to the efficacy of the blockade, Her Majesty's consul-general at Zanzibar was, by the Zanzibar (Prize Court) Order in Council, 1888, authorized to take cognizance of, and proceed judicially in, matters of prize.⁶ And by a further order of the same date, styled the 'Zanzibar Order in Council, 1888,' he was given power to make regulations for peace, order and good government, which should be

¹ B. S. P. 1888, Africa, No. 10, p. 102. For text vide Appendix, pp. 175-6.

² B. S. P. 1889, Africa, No. 1, p. 16. For text vide Appendix, p. 177.

³ Ibid., p. 35, quoting *Boletim Official*, December 29, 1888. Vide Appendix, p. 177.

⁴ Ibid., p. 18, and vide Appendix, pp. 177-8.

⁵ Ibid., p. 9. For full text vide Appendix, pp. 178-9.

⁶ Ibid., p. 14, and vide also *L. G.* December 21, 1888.

binding on all British subjects and British protected persons in Zanzibar.¹

Beyond depressing trade generally, the blockade did not effect much. A great many dhows were boarded, but without result, and for some time the only captures made were a dhow with some eighty slaves, by the Germans, off Pangani, and one by the British with forty-eight sniders (which were subsequently restored) belonging to men who were going to Kilimanjaro to join an English shooting party.² One French dhow was stopped by H.M.S. *Algerine*, having a few guns and powder on board, and with a pass signed by the French consul. The captain of the British warship did not detain it, but was satisfied with the assurance of the 'nahoda' of the dhow that he would take it straight back to Zanzibar.³ The first real capture by the British was of a slave dhow with twelve slaves on board, two and a half months after the start of the blockade.⁴

Meanwhile, both English and German missionaries had been murdered, and there was constant fighting between the Germans and the Arabs. Matters were, on the whole, fairly quiet in the British sphere, which extended from Wanga to Lamu.

On February 19 a public proclamation was made by the Sultan, prohibiting in Zanzibar and Pemba the importation, exportation and trade in arms and ammunition, and the Sultan delegated to the admirals his sovereign rights of search of all Arab vessels in territorial waters.⁵ There was at first a protest from the French consul, but he was informed by his Government that they had no objection to the search of French dhows by the English and German admirals under the delegated authority of the Sultan in the territory of the two islands.⁵

The English took Pemba and Zanzibar harbour, and the

¹ *L. G.* December 21, 1888. By the 'Zanzibar Order in Council, 1889' (*L. G.* March 8, 1889), he was given the further power of prohibiting such persons from being in Zanzibar for two years.

² *B. S. P.* 1889, Africa, No. 1, p. 33.

³ *Ibid.*, p. 46.

⁴ *Ibid.*, p. 68.

⁵ *Ibid.*, p. 40.

Germans the remainder of the territory of the two islands, to look after.

On March 1 notice was given that ships would be searched in the territorial waters of the Sultan, which included the channel between Zanzibar and the mainland, and five miles round the islands (gunshot of modern guns).¹

Meanwhile, on February 27, the Germans added to the stringency of the blockade in that part of the coast controlled by them between Kilwa and Saadani, by extending it to provisions, dhows being only allowed sufficient for three days.² Shortly afterwards they notified the application of martial law to Dar-es-Salaam, Bagamayo, and a radius of one German mile round each.³

The explanation of these tactics on the part of the Germans is curious. Lord Salisbury writes that Count Hatzfeldt had informed him that the prohibition of importation of provisions was a police measure, independent of the blockade. The German forces were engaged in two distinct operations—the suppression of the slave trade, by means of the blockade, and the suppression of the revolt in the German sphere. The second operation involved a state of war, and this necessitated the employment of any means allowed by International Law.⁴ It is difficult to understand how the two operations above mentioned can be reconciled, unless, indeed, the Germans considered that the Arabs and natives who had ‘revolted’ in their sphere of influence were at war with the Sultan, and that they were acting as his agents in putting down the revolt,⁵ under the

¹ B. S. P. 1889, Africa, No. 1, p. 65. This raises the interesting question as to the nature and extent of territorial waters. Vide also Appendix, p. 179.

² Ibid., p. 48.

³ Ibid., p. 57.

⁴ Ibid., p. 53.

⁵ The wording of the ‘Zanzibar (Prize Court) Order in Council, 1888’ (*L. G.* December 21, 1888), lends some support to this view. It runs as follows: ‘And whereas a state of war exists between Her Majesty and other powers in belligerent alliance with the State of Zanzibar, on the one hand, and insurrectionary subjects of the Sultan and other African tribes and populations on the other hand.’ It must be remembered, however, that such a recital would be technically necessary to create a prize court and revive in the consul-general the dormant jurisdiction of a Court of Vice-Admiralty. Too much stress must not, therefore, be

authority, in the one case, of the concessions to the German East Africa Company, and, in the other, of the delegation of the power of blockade. But, if this is the explanation, the blockade must also have been an incident of war. Yet the Germans did not treat it as such, only extending it to slaves, munitions of war and provisions, and letting other cargoes go. Again, as this was a joint blockade by Germany and Great Britain, this could not be a pacific blockade on the part of one power and an act of war on the part of the other, especially as it was entered into under the delegated authority of the Sultan. It was evident that Great Britain did not regard it as an act of war, and it is also clear that other nations did not so regard it, for otherwise there would have been no need for France to give permission for her dhows to be searched.

The whole position is extremely anomalous, and it seems best to describe it as '*une mesure de haute police internationale*'.¹ It is an axiom of International Law that its rules only apply in matters arising between two or more states who are members of the family of nations. And as it cannot be contended that the Sultanate of Zanzibar had arrived at that degree of civilization which would entitle it to be received as a member of the family of nations, there was nothing binding on Great Britain and Germany to treat it as they would treat an European nation. That being so, intervention in its internal affairs was perfectly justifiable, as the Sultan was unable to control them himself, and their non-control was a serious menace to the powers interested. Having intervened, they assisted the Sultan, in his name, to put down the revolt which his concessions to the Germans had caused, and also to stop the slave trade then existing in his dominions—an object

laid on these words. On the other hand, Sir J. Fergusson, the Under Secretary of State for Foreign Affairs, speaks of the 'state of war' (Hansard, 3rd series, vol. cccxxiv, col. 14), and Lord Salisbury (Hansard, 3rd series, vol. cccxxvi, col. 1236), in referring to these operations, said: 'The Germans became by International Law practically masters of the territory in question.'

¹ Ducrocq, p. 153.

specially dear to the policy of Great Britain. The European powers were certainly not at war with the Sultan, as everything was being done in co-operation with him. On the other hand, it could not be contended that the revolting Arabs had reached such a pitch of organization as to warrant their recognition as a belligerent community, and, that being so, the operations could not be considered as a war against them, but merely as the putting down of a revolt. The language of Count Hatzfeldt was, therefore, incorrect and ill-considered, but was doubtless intended to cover and explain away acts and a policy which were hardly contemplated by Great Britain when the joint action of herself and Germany was decided on. The whole story of the blockade, unsuccessful as it was, perhaps, in its main objects, is only one more example of the flexibility and adaptability of pacific blockade to awkward and unprecedented international situations.

The remainder of the blockade need not be considered at any great length. There was a considerable amount of hard work done in boarding the native dhows, but with little result. The figures for the various months were: January 1889, 637, February 617, March 1,360, April 1,232, not including canoes or dhows visited by boats off Pemba. Some of these dhows were visited for the fourth time.¹

The Germans now took the aggressive, bombarded Saadani, and occupied Bushiri, Pangani, and Tanga, the centres of the revolt, which gradually fizzled out. The blockade was raised on October 1, 1889, but the senior German naval officer 'added a rider stating that, notwithstanding this proclamation, the importation of munitions of war into the German sphere is still prohibited'.²

Various disputes arose between the Germans and the British as to the methods by which the blockade was carried on, and the former put forward the 'claims of German subjects connected with the capture of the *Neera* in Lamu harbour by the British blockading squadron, and her condemnation by the Zanzibar prize court, and . . . on account

¹ B. S. P. 1889, Africa, No. 1, pp. 58, 74, 78, 91.

² *L. G.* October 1, 1889.

of the alleged refusal of the British blockading squadron to permit the landing at Lamu of some Somali porters engaged for the expedition of Dr. Peters into the interior'.¹

Finally, matters were settled by an agreement² between Great Britain and Germany, signed on July 1, 1890, by which (Article XI) Great Britain agreed to exercise its influence to obtain the cession by the Sultan to Germany of the territory comprised in the then existing concession to the German East Africa Company, and herself ceded Heligoland, while Germany recognized the protectorate of Great Britain over the remainder of Zanzibar, including the islands of Zanzibar and Pemba.

This protectorate was subsequently recognized by France in a declaration signed on August 5, 1890.³

SIAM, 1893⁴

This blockade arose out of a boundary dispute between France and Siam. France claimed that the territory of Annam extended to the east bank of the Mekong.⁵ Siam, on the other hand, while being willing to refer the matter to arbitration,⁶ denied this claim, and pointed out that by the Franco-Siamese Convention of 1886 the French had claimed the right of sending a vice-consul to Luang-Prabang, which was within the territory that they now claimed as their own,⁷ and that, therefore, they had practically admitted that it did not belong to them. On March 14 the French

¹ B. S. P. 1890, Africa, No. 6, p. 2. Letter, Sir P. Anderson to Sir E. Malet, dated June 28, 1890.

² Ibid., pp. 4-11; Hertslet, *Treaties*, vol. xviii, p. 455.

³ B. S. P. 1890, vol. lxxxi, p. 511.

⁴ (a) B. S. P. 1894, Siam, No. 1; Livre Jaune, 'Affaire du Tonkin'; Ducrocq, pp. 153-9.

(b) *Annual Register*, 1893; *Revue de droit international et de législation comparée*, t. xxv, 1893.

(c) *Revue de droit international public*, t. i, 1894.

⁵ B. S. P. op. cit., p. 19; Ducrocq, p. 154.

⁶ B. S. P. op. cit., p. 19.

⁷ Ibid., p. 82.

representative at Bangkok demanded (1) the immediate evacuation of Annamite territory by Siam, (2) the release of a Siamese subject who had been imprisoned for raising a French flag, and (3) a heavy indemnity.¹ As no immediate acceptance of these terms was made, France began to occupy part of the disputed territory, Stung Ireng being occupied on April 1, 1893,² and the island of Khone on the 4th.³ This led to a rising in the valley of the Lower Mekong, and an attack on the French in Khone on May 12. Thereupon one thousand men were dispatched to reinforce the French troops. About a month later various points on the coast were occupied.⁴ In reply, Siam began to close the mouth of the river Menam. About the same time, too, a French officer was apparently murdered by a Siamese mandarin.⁵ The Siamese Government were willing to make reparation for this if the French account of the outrage was proved to be correct,⁶ but this naturally did not satisfy the French authorities, especially as another French officer had been taken prisoner by a tribe in the north of Siam, which was practically independent.⁷ Matters were not mended by a dignified note in which the Siamese foreign minister stated that as a matter of courtesy they would release the officer in question, although he had been captured 'when in command of an aggressive and hostile expedition'.⁸

On July 13 an incident occurred which brought matters rapidly to a head. Two French steamers, the *Inconstant* and the *Comète*, forced the entrance of the Menam at Bangkok and ascended the river to Paknam. A sharp resistance was offered, which resulted in the killing of one man on the *Inconstant* and some twenty other casualties on the *Comète*.⁹

¹ B. S. P. op. cit., p. 25.

² Ibid., p. 22; *Le Matin*, April 5, 1893; *L'Indépendant de Cochinchine*, April 11, 1893.

³ B. S. P. op. cit., p. 25; *Le Matin*, April 10, 1893.

⁴ Samit Island, June 13; Rong, June 17; and Rong Salem, June 18. B. S. P. op. cit., pp. 43 and 46; Ducrocq, p. 155.

⁵ B. S. P. op. cit., pp. 41 and 50; Ducrocq, p. 155.

⁶ B. S. P. op. cit., p. 42.

⁷ Ibid., p. 35.

⁸ Ibid., p. 58.

⁹ Ibid., p. 64; Ducrocq, p. 155.

A small steamer called the *J. B. Say*, which was compelled to act as a pilot, was sunk in the affray.¹ Under a treaty of 1856 French vessels undoubtedly had a right of ascending the river to Paknam, but the Siamese were within their rights in endeavouring to close the river as a kind of reprisal against the French seizure of part of their territory. It would seem, also, that the commanders of the two French vessels acted under a mistake, and against the orders and agreement of the French minister.² Whatever may have been the circumstances, however, the act of the French commanders was adopted by their superiors, and led to an ultimatum being presented to Siam on July 20. This demanded (1) the cession of the entire left bank of the Mekong, (2) an indemnity of three million francs, (3) the punishment of those concerned in the murder of the French officer and the attack on the ships.³ On non-acceptance of these demands within forty-eight hours, the French minister would leave Bangkok, and a blockade of the coast would at once be instituted. After inquiries as to the exact nature of the French demand for territory, Siam agreed to accept the above conditions, with the exception that they would not cede the whole of the left bank of the Mekong.⁴ This did not prove satisfactory, and a few days later the blockade was instituted.

The first declaration of blockade was made on July 26,⁵ by a Captain Reculoux. It is very doubtful, however, whether this declaration would have been held valid had it been tested, as the notice should have been given by the highest officer in command of the French warships, Admiral Humann. This point appears to have been noticed by the French authorities, and accordingly a fresh declaration of blockade was made by the French admiral on July 29, and at the same time the first declaration was annulled.⁶

¹ B. S. P. op. cit., pp. 121-7.

² Ibid., pp. 64-74.

³ Ibid., pp. 79-80.

⁴ Ibid., p. 82.

⁵ For text vide Appendix, p. 180.

⁶ For text vide Appendix, pp. 180-1: the second declaration was more extensive than the first.

A general confusion as to the exact details of the blockade seems to have resulted. Lord Rosebery, although he pressed for a reply, could gain no definite information, and was variously informed that the blockade started on July 26, July 28, and July 31.¹ Such a state of affairs was most detrimental to British commerce, which owned 87 per cent. in tonnage and 93 per cent. in value of the shipping at Bangkok. British merchants and companies trading with Siam pressed Lord Rosebery to protest against this menace to their trade, but he refused to do so, at any rate until he was in possession of exact information. Indeed, relations were so strained between the two countries at the time² that any formal protest might well have precipitated a war.

Meanwhile, considerable activity in conducting the blockade was shown at Bangkok. An English captain wrote to Vice-Admiral Fremantle, on July 28, that 'every care had been taken by the French to warn them and make every detail clear. French gunboats are already very busy in the bay, stopping and warning junks, &c.'³ On July 29 a British vessel, having on board some Chinese coolies from Hong Kong, was stopped at the bar at the mouth of the river, and forced to remain outside until the next day, when it was allowed to come in and clear.⁴ Another British vessel, the *Savoia*, was also detained at Koh-si-Chang⁵ for some time. In the meantime, orders had been given to the Governor of Singapore not to allow any French ships of war to take in supplies until the British Government had definite information as to the character of the blockade, but these orders were cancelled two days later in view of the prospective raising of the blockade.⁶ 'Friendly vessels' were given three days in which to complete their loading and quit the blockaded port; a time which seems extremely

¹ July 26 from British representative at Bangkok; July 28 from the same and also the senior naval officer at Singapore; July 31 from the British representative in Paris. Vide B. S. P. op. cit., pp. 91-2.

² Note the language, e.g., of the *Times*, July 24, 1893, and *Daily Telegraph*, July 26, 1893.

³ B. S. P. op. cit., p. 160.

⁴ Ibid., p. 99.

⁵ Ibid., pp. 104-5.

⁶ Ibid., p. 104.

short, in spite of Ducrocq's statement that '*cette mesure fut appliquée dans l'esprit le plus conciliant*'.¹ A slight modification of the ordinary rules was made in favour of mail steamers. They were permitted to approach the anchorage of Koh-si-Chang, but then had to hand over their mails to the French minister, who would undertake to have them transmitted as quickly as possible.² A curious departure from the usual rule of international courtesy remains to be noticed. The French admiral declared that the days of grace applied to warships as well as to merchant vessels, and it would, therefore, appear that he contemplated preventing foreign men-of-war from entering the blockaded zone. So far as is known, this provision was not put into force, but if it had been, war might well have been the result.

When the Siamese Government saw that France was in earnest in her demands, it gave way on all points. The blockade was raised at midday on August 3,³ and at the same time the port of Chantaboun was handed over to the French as a pledge of Siamese sincerity.⁴ Eventually the matters in dispute were settled, entirely in the favour of France, by a treaty dated October 3, 1893.⁵

There can be little doubt that this blockade deserves the name of pacific, although Great Britain seems to have been inclined to treat the measures taken by the French as acts of war. The French view, however, was that it was '*un blocus pacifique*',⁶ and there is no evidence whatever that Siam regarded the blockade as hostile;⁷ indeed, every care seems to have been taken to prevent an outbreak against the French

¹ Ducrocq, p. 156.

² Vide Appendix, pp. 181-2.

³ B. S. P. op. cit., p. 174.

⁴ Ibid., p. 115.

⁵ Ibid., pp. 197 and 203; Ducrocq, p. 157.

⁶ B. S. P. op. cit., p. 97, and cf. p. 118. Letter, M. Jules Develle to the Marquis of Dufferin, dated August 3, 1893.

⁷ M. Ducrocq (p. 155) says, '*En effet, elle ne cessait de protester de ses dispositions pacifiques,*'

CRETE, 1897¹

The history of Crete in the nineteenth century is one long record of struggles on the part of the inhabitants against their rulers, the Turks. A fresh rising occurred early in 1897, and the vessels of the Great Powers were sent to Cretan waters to endeavour to maintain order and obtain a definite settlement of the question. The matter was, however, greatly complicated by the action of the Greek Government. Although the President of the Greek Chamber of Deputies, on February 5, 1897, stated the Greek policy as follows: 'Les puissances s'efforçant d'appliquer les nouvelles institutions, la Grèce n'avait pas à intervenir; elle surveillerait les événements dans l'espoir que les puissances feraient prévaloir leurs décisions,'² this policy was not adhered to. On February 8, the Cretan insurgents proclaimed their union with Greece,³ and on the 10th Prince George set out for the island with a torpedo flotilla.³ He was followed on the 13th by Colonel Vassos, at the head of fifteen hundred men and two batteries,³ and this party landed on the 14th.³ The next day, February 15, Colonel Vassos, as 'Commander-in-Chief of the Hellenic army which has to-day occupied the island of Crete', issued a proclamation as follows: 'In the name of His Majesty George the First, King of the Hellenes, I occupy the island of Crete, and proclaim this to its inhabitants.'⁴ On the other hand, this sending of troops was at a later date explained by M. Delyannis, by saying that 'La Grèce avait envoyé des navires en Crète pour sauver la population

¹ (a) B. S. P. 1897, Turkey, Nos. 4, 5, 9, 10, 11 and 12 (Nos. 11 and 12 are bound in B. S. P. 1898, vol. cvi); Ducrocq, pp. 159-74.

(b) *Annual Register*, 1897; Appleton's *Annual Cyclopaedia* for 1897, pp. 241-53; Barès, pp. 45-56; Bonfils, *Manuel de droit international public* (4th ed., by Fauchille, 1905), § 990^a; Holland, pp. 146-9; Lawrence, *Principles of International Law* (1900), pp. 670-1.

² Quoted by Ducrocq, p. 164.

³ *Annual Register*, 1897, pp. 308 et seq.

⁴ B. S. P. 1897, Turkey, No. 10, p. 80.

menacée par le fer et le feu des musulmans'.¹ There is a marked contrast between the two statements, and the genuineness of the latter may, perhaps, be gauged by the evidence of Rear-Admiral Harris, the commander of the British naval forces, who says 'the control of the Turkish soldiery here [Canea] is admirable';² and again, 'the insurgents in nine cases out of ten are the attacking parties, although they always deny it with the most vehement asseverations.'³ Indeed, 'to the presence of the Vassos detachment the blockade of the island is exclusively due.'⁴

On February 13 the admirals met and occupied Canea, and stopped the further disembarkation of troops and munitions of war. On the 20th a Greek filibustering vessel was detained, and on the 24th a joint proclamation was made to the inhabitants to the effect that the admirals 'intend to oppose any act of hostility which may be committed in the presence of one of their ships in any part of the island'.⁵

On March 2 the representatives of Great Britain, Austria-Hungary, France, Germany, Italy and Russia presented an identic note to the Greek Government which stated that Crete could not be annexed to Greece, but that absolutely effective autonomous administration would be granted to it. The note further went on to require the withdrawal of the Greek ships and troops, and warned the Greeks that if this were not done the powers had decided 'not to shrink from any measure of compulsion'.⁶ A somewhat similar note was also presented to Turkey on the same date.⁶

On March 6 Turkey replied accepting the principle of the note, but desiring to discuss the details of carrying it out, and on the 8th a note was received from Greece which was practically a refusal.⁷

¹ French Livre Jaune, 'Affaires d'Orient,' February to May, 1897, No. 31.

² B. S. P. 1897, Turkey, No. 9, p. 4.

³ Ibid., p. 27.

⁴ Ibid., p. 33. Telegram, dated April 5, 1897, Admiralty to Rear-Admiral Harris.

⁵ Ibid., p. 10.

⁶ B. S. P. 1897, Turkey, No. 4.

⁷ B. S. P. 1897, Turkey, No. 5, pp. 1 and 4.

Meanwhile affairs in Crete were steadily growing worse. Some two thousand persons were besieged by the insurgents at a place called Candanos, about three hours' journey inland. Their position had become desperate, and a relief expedition had to be sent by the admirals to bring them down to the coast, a result which was only achieved with considerable difficulty. After this the admirals refused to allow cargoes brought in by merchant vessels to be disposed of, as this would have meant the revictualling of the Greeks and insurgents.¹ Shortly after the institution of this order, but before the actual commencement of the blockade, a Greek schooner, with munitions of war and volunteers on board, was sunk by an Austrian gunboat.²

Instructions were now sent out for the institution of a blockade and a proclamation of autonomy to the people if all the admirals agreed on these measures.³ The French admiral did not receive his instructions until March 17, but details were arranged on the 18th, and the blockade started at 8 a.m. on the 21st.⁴ The blockade only applied fully to Greek vessels: other vessels, while subject to being visited by the blockading ships, were free to land their cargoes if they were not to assist the insurgents.

The British view with regard to the position of the blockade was expressed by Lord (then the Hon. N. G.) Curzon in answer to a question in the House of Commons on March 25, 1897: 'No state of war exists between Great Britain and either Greece or Turkey. The blockade of Crete is understood by Her Majesty's Government to be in the nature of a measure of police, enforced (with the consent of the sovereign power) by the admirals who have control of the coast, with the object of preventing further fighting in the island. The instructions to the British admiral are to the effect that he should apply the rules of the blockade

¹ B. S. P. 1897, Turkey, No. 9, p. 14. Report, Rear-Admiral Harris to Admiral Sir J. O. Hopkins, dated March 15.

² Ibid., p. 36; Appleton's *Annual Cyclopaedia*, p. 249.

³ B. S. P. 1897, Turkey, No. 10, p. 118.

⁴ L. G. March 20, 1897. For text vide Appendix, pp. 182-3.

in accordance with these principles.'¹ The Turkish view of the matter is shown by an extract from the *Levant Herald* of March 22, 1897, being a translation of an official communiqué: 'This pacific attitude of the Great Powers . . . is in accordance with the rights and political interests of the Imperial Government.'²

Several boats, containing for the most part provisions and munitions of war, were captured while endeavouring to run the blockade. On one occasion three of the captured boats had to be destroyed owing to the bad weather, their captor, the British warship *Dryad*, having first taken on board their cargo of flour.³ After a few days the British admiral was able to report that 'the steamers have . . . almost ceased to run, but a large amount of blockade running is done in caiques (native coasting boats), many of which have been captured by the cruisers and brought into Suda Bay, where they are detained'.⁴ The flour and captured food supplies taken by the British during the blockade were sent to Candia for the relief of the poor Mussulmans.⁵ Considerable firing went on on shore, particularly round a blockhouse on a ridge of heights overlooking Canea. The insurgents, who had regular Greek troops with them, were here very active, and had several times to be shelled before they desisted.⁶

In spite of the blockade, however, Greece appeared to be in no hurry to recall Colonel Vassos, and the relations between Greece and Turkey became very strained. Both nations were informed by the powers that in case of war the aggressor would be held liable.⁷

As was said at the time: 'War has practically been declared against the powers by Vassos, and it is necessary

¹ Hansard, 4th series, vol. xlvii, col. 1311.

² Cf. the *Lausanne Gazette*, March 27, 1897.

³ B. S. P. 1897, Turkey, No. 10, p. 163. Report, Rear-Admiral Harris to Admiralty, dated March 28. This incident is noteworthy in view of the outcry against the Russian action in sinking neutral vessels in the recent Russo-Japanese war.

⁴ B. S. P. 1897, Turkey, No. 9, p. 30.

⁵ *Ibid.*, p. 44.

⁶ *Ibid.*, p. 31.

⁷ B. S. P. 1897, Turkey, No. 11, p. 175.

that the King of Greece should have pressure put upon him to recall him.'¹ Accordingly, proposals were made for a blockade of the Gulf of Athens, the Piræus and the Gulf of Corinth, and the powers seem to have been practically agreed on this course when, on April 18, war broke out between Greece and Turkey. Thereupon the powers agreed that, in view of war having actually broken out, it would be expedient 'to abstain from all intervention until a favourable opportunity presents itself for offering their mediation';² but that the withdrawal of Greek troops from Crete would be a condition precedent to any intervention.

On the outbreak of war a Turkish *Irade* provided for the expulsion of Greeks from Turkish territory within a period of fifteen days. The Porte endeavoured to include Crete in the sphere of this order, but was prevented by the powers '*en raison de la situation spéciale du pays*'.³

The position taken up by the powers was well expressed by Mr. Balfour, in answer to a question in the House of Commons on April 26, 1897. 'The powers having assumed the occupation of the littoral of the island before the outbreak of the war, have determined that it shall be considered neutral. The blockade is maintained for the purpose of preventing opposition to that authority.'⁴ M. Hanotaux also said: '*La Crète doit être considérée comme territoire neutre; les puissances maintenant le blocus strict empêcheront tout débarquement des troupes belligérantes et continueront leurs efforts pour l'organisation définitive de la Crète.*'⁵

The war went against the Greeks, and to obtain the mediation of the powers the Greek Government decided to withdraw their troops from Crete. Colonel Vassos and other officers left on May 9, and the next day the British

¹ B. S. P. 1897, Turkey, No. 11, p. 163. Dispatch, Sir F. Lascelles to the Marquess of Salisbury.

² *Ibid.*, p. 191.

³ French Livre Jaune, 'Affaire de Crète,' Nos. 580, 591, 603, 610, and 625, cited by Ducrocq, p. 171.

⁴ Hansard, 4th series, vol. xlviii, col. 1076.

⁵ French Livre Jaune, 'Affaire de Crète,' No. 569, p. 301. Cf. No. 539, p. 288, cited by Ducrocq, p. 172.

admiral was ordered to 'allow Greek transports and ships of war to come to Crete for the sole purpose of embarking Greek troops'.¹ The ships that had been seized during the blockade were also put at the disposal of the Greek Government for the same purpose.²

On May 14 five hundred troops embarked, a further six hundred and eighty-two on the 19th, and the last batch left for the Piraeus on May 26.³

Thereupon the Great Powers intervened between the combatants, and an armistice was arranged dating from one p.m. on May 19; this subsequently broadened into a definite peace.

Meanwhile the British admiral reported that 'the blockade has been so far relaxed that it is practically inoperative at present'.⁴ It was not, however, officially and formally raised until December 5, 1898,⁵ the powers continuing strictly to watch the coasts of Crete to prevent the landing of bands of Greek volunteers or munitions of war.⁶ Finally, on April 29, 1899, a constitution was granted which made of Crete 'un État jouissant d'une autonomie complète dans les conditions établies par les quatre grandes puissances'.⁷

Several important questions⁸ were raised by this blockade. In the first place, it seems clear that some vessels were stopped before the date announced for the starting of the blockade. Thus the Austrian torpedo boat *Sebenico* seized a Greek sailing vessel on March 17 in the Bay of Dia. The Austrian papers asserted that the reason for seizure was the opening fire on the *Sebenico* by the insurgents. This statement is repudiated by the Greek papers, which declare that the boat was seized because it refused to leave the

¹ B. S. P. 1897, Turkey, No. 10, p. 195.

² Ibid., p. 196.

³ B. S. P. 1897, Turkey, No. 11, p. 293.

⁴ B. S. P. 1897, Turkey, No. 10, p. 196.

⁵ Ducrocq, p. 167.

⁶ B. S. P. 1897, Turkey, No. 12, p. 269.

⁷ Constitution of Crete, 1899, Art. I, Cap. I. Ducrocq (p. 174) writes: 'Les puissances de six qu'elles étaient au début, se trouvaient réduites à quatre, par suite de la retraite de l'Allemagne et de l'Autriche.'

⁸ The questions of the sinking of vessels and the fact of the non-universality of the blockade are dealt with in Part I.

place after repeated demands.¹ It may be, however, that all the boats seized were of a filibustering character, and therefore rightly seized by the international squadron as agents (recognized by the Turkish note of March 6) of the sovereign authority. If this were so, the question of blockade would not arise, as, technically at any rate, a sovereign can close its ports to the vessels of another power.

The most important question, however, arose after the outbreak of war between Greece and Turkey. The powers were blockading the coasts of one belligerent in that belligerent's interest, and prevented any hostile action taking place within the zone of blockade. Technically, it would seem that they became the allies of Turkey, because they prevented the Greek troops from further invading the Turkish territory of Crete; but, on the other hand, it is without precedent for one ally to blockade another's ports. As a matter of fact, the measure prevented both sides from free action with regard to Crete, and it would seem best to regard it as *sui generis*, 'un droit des gens spécial, fait pour les besoins de la cause,'² and made valid by the dominant position which the Concert of Europe has assumed with regard to European affairs.

Another question that arose was the attitude of powers (neutral powers, as they are called in the proclamation, although this is an improper use of the term) other than those actually engaged. On this point M. Ducrocq writes: 'Après sa notification toutes les puissances tierces, sans aller jusqu'à ne pas le reconnaître, ne l'acceptèrent pas toutes d'une façon pure et simple. Ainsi les États-Unis se bornèrent à un simple accusé de réception sans entendre nullement par là reconnaître la légitimité du blocus de la Crète, désirant se réserver à cet égard.'³

Although, however, the blockade presents a number of unusual features, there can be no doubt that it was really 'pacific'. To regard it in any other light would imply that the Great Powers were at war with Turkey and Greece, or one of them, which was certainly not the case. Their

¹ Ducrocq, pp. 168-9.

² Ibid., p. 173.

³ Ibid., p. 169.

representatives remained at Athens and Constantinople during the whole period, and no one seems to have regarded the blockade in any other way than as a measure of coercion applied to the island of Crete with a view to its pacification and good government.

VENEZUELA, 1902-3¹

The cause of the blockade of Venezuela was the obstinate refusal of the Venezuelan Government to apologize and pay damages for certain gross outrages on British ships and seamen. There had been a whole series of cases in which the ordinary usages of International Law and courtesy had been violated. The principal of these are set out in a memorandum issued from the Foreign Office on July 20, 1902.² They may be summarized as follows :—

1. The Venezuelan gunboat *Augusto*, on January 22, 1901, seized four boats, their cargo, and some of their crew by means of a landing party of twenty men at the island of Patos.³ Patos was a small island belonging to Great Britain, as was acknowledged in a statement made by the Venezuelan consul.⁴

2. On February 26, 1901, John Craig, a British subject of Trinidad, while in his boat, the *Seahorse*, was pursued to Patos, where his boat was seized by a Venezuelan Guarda Costa.⁵

3. On August 30, 1901, a vessel called the *Pastor* was fired on while in British territorial waters at Patos.⁶

4. On May 1, 1902, the British vessel *In Time* was sunk

¹ (a) B. S. P. 1902, Venezuela, No. 1 ; B. S. P. 1903, Venezuela, No. 1.

(b) Appleton's *Annual Cyclopaedia* for 1902, pp. 826-9; Bonfils, *Manuel de droit international public* (4th ed., by Fauchille, 1905), § 990². Westlake, *International Law*, Part II, 'War' (1907), pp. 15-16.

² B. S. P. 1902, op. cit., pp. 1-4 ; B. S. P. 1903, op. cit., pp. 126-9.

³ Cf. B. S. P. 1903, op. cit., p. 1. Dispatch, Governor Sir A. Maloney to Mr. Chamberlain, with enclosures verified on oath.

⁴ B. S. P. 1903, op. cit., p. 6.

⁵ Ibid., p. 21. Dispatch, Mr. Grant Duff to Lord Lansdowne.

⁶ Ibid., p. 39. Dispatch, Colonial Office to Foreign Office, with enclosures.

in the harbour of Pedernales by the Venezuelan gunboat *General Crespo* after an order had been given to seize all craft in the harbour.

5. In June, 1902, the British ship *Queen of Grenada* was seized. 'It appears from sworn testimony that the vessel, while on her voyage from Grenada to Trinidad, in ballast, was overhauled by the gunboat *Restaurador* some twenty miles off Campano; that after the seizure the *Queen* was towed into the Venezuelan port of Porlamar, there stripped of her sails and papers, and finally confiscated on a mere suspicion of having carried a cargo of arms to Venezuela, the crew being put on shore and left destitute.'¹

6. The British sloop *Indiana* was seized by the Venezuelan authorities, and subsequently lost by them in the Barima river.²

7. The house of a Mr. J. N. Kelly was pillaged.³

8. On September 22, 1902, the British sloop *Racer*, while in a disabled condition, drifted ashore, and was robbed by boats pulling off from shore, the ship being subsequently seized by the local authorities of Carupano.⁴

Besides these specific instances of ill-treatment, there was also a number of 'cases in which British subjects and companies had large claims against the Venezuelan Government', while the proceedings of Señor Figueredo, the acting Venezuelan consul at Trinidad, were strongly objected to.⁵

Many complaints and remonstrances were addressed to the Venezuelan Government, but these were of no avail, and at last it was stated that 'the position of His Majesty's legation at Caracas has been rendered for diplomatic purposes quite impracticable, as all representations, protests and remonstrances now remain disregarded and unacknowledged'.⁶

¹ B. S. P. 1903, op. cit., pp. 124-5. Dispatch, Mr. Haggard to Lord Lansdowne, with enclosures, June 30, 1902.

² Ibid., pp. 116-22.

³ Ibid., p. 8. Dispatch, Mr. Grant Duff to Lord Lansdowne, dated March 27, 1901.

⁴ Ibid., pp. 147-8.

⁵ Ibid., pp. 89-99 and 107.

⁶ B. S. P. 1902, op. cit., p. 4.

The position the Venezuelan Government took up was that they had 'decided to postpone dealing with any other matters pending with the British legation until the settlement of the *Ban Righ* question'.¹

The *Ban Righ* had been originally fitted out in England and had been detained by the British authorities as being apparently destined for warlike purposes. At this juncture the Colombian minister in London stated that the vessel was intended for the service of his Government,² and as this was combined with a statement by the Venezuelan and Colombian ministers that no state of war existed between their respective countries, there was no further obligation, or indeed right, to detain the vessel, and she was accordingly released. Subsequently she took part in various filibustering exploits against Venezuela, and that country claimed to be indemnified from the results by Great Britain, a claim which the latter declined to recognize.

The German claims were of a somewhat different character, and consisted mainly of monetary claims by various creditors for damage done during the civil war. A summary of these is contained in the memorandum communicated to the British Government by Count Metternich on November 13, 1902.³

Several other European nations also had claims against Venezuela, but Italy⁴ was the only one which was willing to join England and Germany in obtaining satisfaction by forcible means : her claim amounted to 336,000 francs.⁵

It was at first suggested that a pacific blockade should be employed to enforce these claims, but, on the advice of Vice-Admiral Douglas, it was decided to adopt his alternative scheme of seizing all the Venezuelan gunboats in the first instance.⁶ Orders were sent out by their respective Govern-

¹ B. S. P. 1903, op. cit., p. 139. Letter, dated August 2, 1902, from Señor Baralt to Mr. Haggard.

² Ibid., pp. 42-6, and B. S. P. 1902, op. cit., Appendix, p. 17.

³ Ibid., p. 147. For summary of the British claims communicated to the German ambassador, cf. p. 141.

⁴ Ibid., p. 161.

⁵ Appleton's *Annual Cyclopaedia* for 1902, p. 828.

⁶ B. S. P. 1902, op. cit., p. 9.

ments to the British and German representatives at Caracas, and it was arranged that a settlement of the claims of the one nation should not be accepted without a settlement of the claims of the other. Similar ultimatums were simultaneously presented to Venezuela by Great Britain and Germany on December 7,¹ and, as no answers were received within twenty-four hours, the ministers left for La Guayra, and after another twenty-four hours active measures were taken. Several Venezuelan ships of war were seized² without resistance, and two of them were subsequently sunk by the German commodore.³ This was the signal for the arrest of numerous Englishmen and Germans residing in Venezuela, but, owing to the good offices of the United States, these were soon released again. A few days later the captain and crew of a British ship were illtreated at Puerto Cabello, and forced to haul down the British flag. An apology was demanded, but not being forthcoming, two forts outside the town were shelled after due warning had been given. Practically no resistance was offered, and the work was completed by a landing party, who destroyed the guns.⁴

Nearly the whole of the Venezuelan navy was seized in the course of a few days, but as this produced no effect it was decided to go on with the pacific blockade. It was arranged that the two powers should blockade different ports and issue their own notifications and instructions.⁵ The blockade started on December 20,⁶ and applied to all vessels, although various days of grace were allowed to steamers and sailing vessels, according to their port of departure.⁷ Following on this announcement the coast was

¹ The Italian ultimatum, which was similar, was presented on December 13 (Appleton's *Annual Cyclopaedia*, 1902, p. 828).

² Among these was a transport called the *Ossun*, which had been hired from French owners. The French consul was informed that it would be given up to him on receipt of a guarantee that it should not be returned to Venezuela.

³ B. S. P. 1903, op. cit., p. 167.

⁴ Ibid., p. 174.

⁵ Ibid., p. 169.

⁶ L. G. December 20, 1902. For full text vide Appendix, p. 183.

⁷ The American merchantman *Caracas*, however, which had started for La Guayra before the notification of the blockade, was permitted to enter

strictly blockaded, and elaborate instructions were issued for the naval officers concerned, as follows :—

Instructions to Naval Officers.

‘ 1. Every merchant vessel sailing under other than the Venezuelan flag, which may be found by one of the blockading ships in the immediate neighbourhood of a blockaded port, is to receive a special notification in accordance with the following procedure :—

‘ 2. An officer of the blockading ship is to be sent on board the merchant vessel. He is to notify to the master of the merchant vessel the existence and extent of the blockade, and is to inform him that he cannot be permitted to communicate with the blockaded port, and that any attempt to do so in defiance of such warning will render his vessel liable to seizure and detention for trial in a Prize Court, with probable ultimate confiscation of ship and cargo.

‘ 3. The boarding officer will then enter in the log-book of the merchant vessel and on the document which fixes her nationality, the name of His Majesty’s ship by whom the notification in his person has been made, together with a statement of the terms of the notification and the date and place at which the visit was made, and to these entries he will affix his signature.

‘ 4. Any such vessel which may appear to have an intention of breaking the blockade is to be ordered to quit the neighbourhood under pain of seizure.

‘ 5. Every merchant vessel sailing under other than the Venezuelan flag, which in defiance of the above notification attempts to communicate with any of the blockaded ports, is to be seized and thereupon conveyed to Port of Spain, Trinidad, where she is to be handed over to the Prize Court.

‘ 6. Merchant vessels which, on being boarded,

(a) Produce obviously false papers,

(b) Refuse or fail to produce the necessary documents to prove their nationality, identity, and destination,

the port of La Guayra, but before she had discharged her cargo the German naval forces, on December 23, compelled her to leave (Appleton’s *Annual Cyclopaedia*, 1902, p. 829).

are to be considered as attempting to break the blockade, and are to be ordered to quit the neighbourhood under pain of seizure and ultimate confiscation.

‘ 7. Merchant vessels sailing under the Venezuelan flag, or merchant vessels sailing under other than the Venezuelan flag which may be proved to be in the service of the Venezuelan Government, are to be seized and treated as prize of war.

‘ 8. The exceptions to the above instructions are as follows :—

‘ (1) Ships which are bona fide in distress are to be permitted, as need shall arise, to enter or leave a blockaded port.

‘ (2) The blockade does not affect foreigners, that is to say, persons of other than Venezuelan nationality, who wish to leave the country.

‘ Ships under other than the Venezuelan flag, which have such persons on board and possess certificates from their Consuls, together with papers in proper form, will, after giving previous notice to the blockading ship, be allowed to pass. But such ships may have no cargo on board beyond the baggage of bona fide travellers.

‘ (3) Every consideration is to be given, compatible with the exigencies of the blockade, to British and German nationals, and the subjects of neutral states.

‘ A prize court will at once be established at Port of Spain.¹’

Mail steamers were subject to the blockade restrictions, but if the mails were transferred to the blockading ships the latter endeavoured to land them.² The blockading forces landed and seized the custom houses at Carupano, Cumana, Guanta, La Guayra, and Puerto Cabello : and ‘ a large number of merchant vessels belonging to Venezuelans and of cargoes destined for Venezuela were stopped by the blockading squadrons, and the captured ships were moored at Margarita Island ’.³

While the blockade proceeded the Venezuelan Government

¹ B. S. P. 1903, op. cit., p. 170. Admiralty to Vice-Admiral Sir A. Douglas. Dispatch, December 11, 1902.

² Ibid., p. 180. Dispatch, Admiralty to Vice-Admiral Douglas, dated December 18.

³ Appleton's *Annual Cyclopaedia*, 1902, p. 829.

appointed Mr. Bowen, the United States minister, as its agent to negotiate a settlement, and gave him the fullest powers.¹ It was suggested that Venezuela should give security for the payment of the various claims by setting apart a certain portion of the customs dues for that purpose, but the matter was complicated by the fact that other nations, such as Belgium and France, already had interests in the customs of Venezuela. Finally, however, terms were arranged, and three similar protocols with the three blockading powers were signed by Venezuela on February 13, 1903. By the one with Great Britain,² Venezuela acknowledged the justice of the British demands, and paid £5,500 to satisfy the claims for the seizure and plunder of British vessels and imprisonment of British subjects. Other claims, with the exception of those of the bondholders, were referred to a mixed commission. The claims of the bondholders were met by the setting aside of thirty per cent. of the customs of La Guayra and Puerto Cabello. In default of any arrangement as to the distribution of the customs, and the right of Great Britain, Germany and Italy to have a settlement of their claims separate from the other powers, the matter was to be referred to the Hague tribunal with power for any state interested to become a party.

The most important clauses, however, from the point of view of International Law were Articles VII and VIII, as follows :—

Article VII. ‘The British and Venezuelan Governments agree that, inasmuch as it may be contended that the establishment of a blockade of Venezuelan ports by the British naval forces has *ipso facto* created a state of war between Great Britain and Venezuela, and that any treaty existing between the two countries has been thereby abrogated, it shall be recorded in an exchange of notes between the undersigned that “certain conventions” shall be deemed to be renewed and confirmed, or provisionally renewed and confirmed, pending the conclusion of a new treaty of amity and commerce.’

Article VIII. ‘Immediately upon the signature of this

¹ B. S. P. 1903, op. cit., pp. 194 and 218.

² Ibid., pp. 225-7.

treaty arrangements will be made by His Majesty's Government, in concert with the Governments of Germany and Italy, to raise the blockade of the Venezuelan ports. His Majesty's Government will be prepared to restore the vessels of the Venezuelan navy which have been seized, and further to release any other vessels captured under the Venezuelan flag, on receipt of a guarantee from the Venezuelan Government that they will hold His Majesty's Government indemnified in respect of any proceeding which might be taken against them by the owners of such ships or of goods on board them.'

In accordance with this protocol, orders were given to raise the blockade on February 14.¹

The blockade of Venezuela is chiefly remarkable for its stringency, and the definite character of the instructions to those who had to carry it out. In some quarters it has been considered as an act of war, and there is much to support this view. A prize court was established, and 'neutral states' and 'prize of war' are mentioned in the instructions to naval officers. Moreover, considerable force was used in seizing the Venezuelan gunboats, and bombarding Puerto Cabello. Mr. Balfour's personal opinion also seems to incline this way. In answer to a question in the House of Commons on December 17, 1902, he stated: 'I think it is very likely that the United States will think there can be no such thing as a pacific blockade, and I personally take the same view. Evidently, a blockade does involve a state of war. . . . Does the honourable and learned gentleman suppose that without a state of war you can take the ships of another power and blockade its ports?'² Again, at Trinidad, on December 22, a Gazette extraordinary was issued to the effect that: 'Being satisfied thereof by information received by me, I do hereby proclaim that war has broken out between His Majesty and the United States of Venezuela.' Professor Holland, in commenting on this, says: 'The effect of this proclamation was, however, merely, under the Colonial Courts of Admiralty Act, 1890, and the Prize Courts Act, 1894, to

¹ B. S. P. 1903, op. cit., p. 228. Dispatch, Lord Lansdowne to Sir M. Herbert.

² Hansard, 4th series, vol. cxvi, col. 1490.

call into activity the dormant commission of the Supreme Court of Admiralty to act as a Court of Prize.'¹ This announcement, coupled with Mr. Balfour's statement and the wording of the protocols entered into, sets up a strong line of evidence for those who maintain that a state of war actually existed. Professor Holland suggests that the situation created might be called 'war sub modo'.² On the other hand, Venezuela made practically no resistance to the measures used against her, and when reprisals are adopted it is certain that it is for the state on whom they are being inflicted to determine whether it will consider them as such, or as acts of war. Venezuela does not appear to have considered the action of the three powers as warlike, and on the whole, therefore, it seems justifiable to consider the operations as in fact a pacific blockade.³ It might also well be argued that if two countries do not know whether they have been at war, it is highly probable that they have not, and Article VII of the protocol shows that there was considerable doubt as to the exact international status of the allies.

The practice of the blockade shows one curious modification of the usual British methods. The notification in the *London Gazette* and elsewhere was not considered sufficient evidence to condemn a vessel for violation of the blockade, but a separate notification was required for each vessel approaching the limits of the blockade, in accordance with the usual French doctrine. On the other hand, the German vessels interfered with the ordinary coast fishing vessels, a practice which has been declared by the United States courts, in the *Paquete Habana*, to be forbidden in time of war,⁴ except, perhaps, in cases of urgent necessity, such as Napoleon's proposed invasion of England.

¹ Holland, article in *Law Quarterly Review*, No. 74, April, 1903.

² *Ibid.*

³ Oppenheim (§ 46) says that the blockade of Venezuela, although declared to be warlike, was essentially a pacific blockade; but Westlake (*op. cit.*) considers that it was in fact warlike.

⁴ Holland, *op. cit.* Vide also Regulation adopted by the Second Hague Conference, 1907. [B. S. P. Miscellaneous, No. 1 (1908), pp. 127-32.]

APPENDIX

NETHERLANDS, 1832-3

British Official Notice of Embargo and Blockade.

‘ And His Majesty is further pleased to order that a general embargo or stop be made of all ships and vessels whatsoever belonging to the subjects of the King of the Netherlands, now within, or which shall hereafter come into, any of the ports, harbours, or roads, within any part of His Majesty’s dominions, together with all persons and effects on board such ships and vessels ; and that the commanders of His Majesty’s ships of war do detain and bring into port all merchant ships and vessels bearing the flag of the Netherlands ; but that the utmost care be taken for the preservation of all and every part of the cargoes on board any of the said ships or vessels, so that no damage or embezzlement whatever be sustained, and the commanders of His Majesty’s ships of war are hereby instructed to detain and bring into port every such ship and vessel accordingly.¹’

NEW GRANADA, 1837

Notice of Blockade for British Residents.

‘ I have to acquaint you for the information of British subjects here, and such others as it may concern, that on the 10th inst. [January, 1837] I declared at Jamaica the whole coast of New Granada to be under blockade externally.²’

¹ *L. G.* November 7 and 9, 1832.

² *B. S. P.* 1837, ‘Correspondence between His Majesty’s Government and the Government of New Granada respecting the imprisonment of Mr. Pro-Consul Russell at Panama,’ p. 119. Dispatch, dated January 21, 1837, Commodore Peyton to Mr. Consul Kelly.

MEXICO, 1838

French Official Notice of Blockade to Great Britain.

‘ Earl Granville, Her Majesty’s Ambassador at Paris, has transmitted to Viscount Palmerston, Her Majesty’s Principal Secretary of State for Foreign Affairs, an official letter (of which the following is a translation), which has been addressed to Earl Granville by the Count Molé, French Minister for Foreign Affairs, notifying the establishment of a blockade of the ports of Mexico, against all vessels, except British packet boats employed in the conveyance of the mails :—

‘ (Translation)

‘ MY LORD,

‘ The Mexican Government having refused to redress the numerous grievances for which the Minister Plenipotentiary of the King at Mexico had been directed to demand reparation, the commander of the French naval forces before Vera Cruz has found himself under the necessity of adopting, as by his instructions he was authorized to do, the measures which, in such a case, the dignity of France and the justice of its claims required.

‘ Accordingly all the ports of Mexico have been declared to be in a state of blockade ; and this blockade, which became effective, as far as regards Vera Cruz, from the 16th of April last, will, without delay, have taken effect in like manner with respect to the other ports of Mexico. In making known to you these measures, I hasten, My Lord, to add, that the orders given by the Government of the King for insuring the execution of them are so conceived as to reconcile the practical exercise of a legitimate right with the respect due to the independence of neutral flags, and with the sincere desire to cause the least possible inconvenience to the navigation of neutral vessels. Of this the Government of Her Britannick Majesty will find a special proof in the measure which exempts British packet boats employed in the conveyance of correspondence from the application of the rules of the blockade. This exemption

has appeared to us to be an indirect consequence of the liberal principle sanctioned by the 13th article of the Post Office Convention of 14th June, 1833, which authorizes the continuation of the Post Office arrangements between the two countries, even in case of war.

'I request you to be so good as to convey the present notification to the knowledge of the Government of Her Britannick Majesty.

'(signed) MOLE.

'Paris, June 1, 1838.'¹

French Official Notice of Blockade to the United States.

'A Monsieur de Forsyth, ministre des affaires étrangères des États-Unis. Le gouvernement mexicain ayant rejeté l'ultimatum à lui adressé le 21 mars dernier par le gouvernement du roi, dans un but de conciliation, l'ambassadeur de France, qui se trouve en ce moment à bord de la frégate *l'Herminie*, vient de me notifier ce refus ainsi que les mesures que le commandant de l'escadre française a cru devoir adopter. En conséquence, tous les ports du Mexique sont déclarés en état de blocus. En ce qui concerne la Vera Cruz, le blocus a commencé à dater du 15 du mois dernier, et il est très probable que depuis lors on l'aura étendu aux autres ports de la République. Ainsi que vous le verrez par l'extrait de la dépêche que m'a envoyée le baron Defaudis, les ordres donnés au commandant Bazoche pour l'exécution de la tâche qui lui est confiée s'accordent parfaitement avec les principes libéraux que la France professe au sujet du blocus, et ces ordres sont conçus de manière à préserver les vaisseaux neutres, et notamment ceux des États-Unis, de toutes restrictions et entraves qui ne seraient pas absolument indispensables à la réalisation du but légitime que se propose le gouvernement du roi.'²

¹ *L. G.* June 5, 1838.

² Barès, p. 33. M. de Pontois to the American Government.

THE ARGENTINE CONFEDERATION, 1838-40

French Official Notice of Blockade to Great Britain.

' Foreign Office, June 21, 1838.

' A dispatch has been received at this office from Mr. Mandeville, Her Majesty's Minister at Buenos Ayres, stating that Rear-Admiral Le Blanc, Commander-in-Chief of the naval force of the King of the French on the coast of Brazil and in the South Seas, had declared the port of Buenos Ayres, and the whole of the rivers of the Argentine Republic, to be in a state of strict blockade by the French naval force.

' The French Admiral had also declared that this blockade was to be strictly maintained, until the grounds of complaint upon which it was established should be removed; but that the foreign merchant vessels then in the port or roads of Buenos Ayres should have permission to depart from thence until the 10th day of May following, from which time the blockade was to be general, and to extend equally to vessels entering or leaving the port.

' The French Admiral had further informed Mr. Mandeville that Her Majesty's branch packets, conveying the mails between Rio de Janeiro and Buenos Ayres, would meet with no interruption from the blockading squadron, upon the condition that the Commanders of the said packets should declare, upon their word of honour, that they are not bearers of any merchandize¹ subject to Custom House duties.'²

NICARAGUA, 1842

British Official Notice of Blockade.

' It is hereby notified that the Lords Commissioners of the Admiralty have received a dispatch, dated the 19th day of June last, from Vice-Admiral Sir Charles Adam, K.C.B., Commander-in-Chief of Her Majesty's Naval Forces in North America, the West Indies, and seas adjoining, that he had

¹ *Sic.*

² *L. G.* June 22, 1838.

on the 17th of the same month, by virtue of the authority to him delegated, placed the port of San Juan de Nicaragua in a state of blockade ; and that he had issued a declaration to the following effect :—

‘ I hereby declare the port of San Juan de Nicaragua, situated at the mouth of the river of that name, to be blockaded, and that all commercial intercourse with the said port shall be prevented and cease ; and whereas a sufficient force is stationed before the said port of San Juan de Nicaragua to carry the blockade into effect :

‘ I hereby give public notice of the same to all whom it may concern ; and that all ships and vessels, under whatever flag they may be, will be turned away and prevented from entering the said port of San Juan de Nicaragua ; and if, after any ship or vessel has been warned not to enter the said port, then and in that case any such ship or vessel that may attempt to break the blockade, will be seized and be dealt with according to the rules established for the breach of a *de facto* blockade.’¹

NICARAGUA, 1844

British Official Notice of Blockade.

‘ It is hereby notified, that the Lords Commissioners of the Admiralty have received a dispatch, dated the 18th of May last, from Sir Charles Adam, K.C.B., Vice-Admiral of the White and Commander-in-Chief of Her Majesty’s ships and vessels on the North American and West India station, and the seas adjacent, stating, that in virtue of authority duly conferred upon him, he has declared a blockade of the port of San Juan de Nicaragua ; and that the same was established on the 30th of March last. It is further notified, that the measures sanctioned by the law of nations will be adopted and executed with respect to all vessels and cargoes attempting to violate the said blockade.’²

¹ *L. G.* August 19, 1842.

² *L. G.* June 11, 1844.

British Notice of Blockade to Nicaragua.

‘ The Brittanic Majesty’s Schooner *Pickle*,
 ‘ St. Juan de Nicaragua, 23rd March, 1844.

‘ Whereas it has come to my knowledge that dispatches from Her Brittanic Majesty’s Vice-Consul at Realego for which I am here waiting, have been unlawfully detained since the 10th inst. at Grenada, and it having been further made known to me that officers and persons in the pay and service of the State of Nicaragua have aided and assisted at such unlawful detention, which I am bound to believe is without the sanction of His Excellency the Chief of the State.

‘ And whereas I am well assured that no other nation would any more than Great Britain herself give countenance to acts and deeds not considered lawful in civilized states, I do hereby give public notice to all whom it may concern that as long as the said dispatches are withheld from me I will not allow any intercourse whatsoever with the Port of San Juan from seaward, and moreover I do hereby call upon the Government officers in the State of Nicaragua to see that due protection is given to all subjects and others in the interest or service of Great Britain, inasmuch as, though my intercourse with the Consular Office is cut off, I have ample means of making every aggression known to His Excellency the Chief of the State through my own Commander-in-Chief at Jamaica.

‘ (signed) JOSEPH A. BAINBRIDGE,
 ‘ Lieutenant and Senior Naval Officer.

‘ To the Commandant Present,
 ‘ San Juan de Nicaragua.’¹

British Notice of Blockade to a British Vessel.

‘ Her Majesty’s Schooner *Pickle*,
 ‘ St. Juan de Nicaragua, 23rd March, 1844.

‘ Whereas the State of Nicaragua has unlawfully detained important dispatches from the Vice-Consul of Her Brittanic

¹ P. R. O. No. 5542.

Majesty, for which I am here waiting, I do, in consequence, declare the Port of San Juan blockaded till such dispatches be delivered up to me, and I do hereby warn you the Commander of *Santander* that he is not to pass the Schooner under my command, but is to anchor between her and Port Arenas, or to remain outside at his pleasure.

‘ (signed) JOSEPH A. BAINBRIDGE,
‘ Lieutenant and Senior Naval Officer Present.’¹

Renewed British Notice of Blockade to Nicaragua.

‘ I have hereby the honour to give Public Notice to the Commandant the Collector of Customs, the Merchants and Inhabitants of St. Juan de Nicaragua, that the said Port of St. Juan de Nicaragua is blockaded agreeably to instructions from the Commander-in-Chief of Her Britannic Majesty’s Naval Forces in the West Indies and Seas adjacent, a copy of which I have² with the Commandant, who I request will use his best endeavours to make known to all persons residing within the State of Nicaragua that their commercial intercourse with every nation from the Port of St. Juan has ceased, so that private individuals may not bring upon themselves unnecessary loss or inconvenience.

‘ Dated on board Her Britannic Majesty’s Schooner *Pickle*, this 30th day of March, 1844.

‘ (signed) JOSEPH A. BAINBRIDGE,
‘ Lieutenant.’³

British Notice of Blockade to a Third State.

‘ SIR,

‘ I have hereby the honour to give Public Notice to the officers of Government that⁴ Merchants and Inhabitants of the State of Costa Rica that the Port of San Juan de Nicaragua in Central America is blockaded agreeable⁴ to instructions from the Commander-in-Chief of Her Britannic Majesty’s Naval Forces in the West Indies and Seas adjacent, a copy of which I send herewith, and I call on all influential

¹ P. R. O. No. 5542.

² *Sic.*

³ P. R. O. No. 5542.

⁴ *Sic.*

Persons to make such Blockade generally known in order to prevent private individuals bringing upon themselves loss or inconvenience.

‘ Dated on board Her Britannic Majesty’s Schooner *Pickle*, this 30th day of March, 1844.

‘ (signed) JOSEPH A. BAINBRIDGE

‘ (Lieutenant).

‘ To the Principal Secretary of the
State of Costa Rica.’¹

British Notice of Blockade to the Vessel of a Third State.

‘ I have hereby the honour to give Public Notice to all ships and vessels to whatsoever nation belonging that the Port of San Juan de Nicaragua in Central America is blockaded agreeably to orders from the Commander-in-Chief of Her Britannic Majesty’s Naval Forces in the West Indies and Seas adjacent (a copy of which I send herewith), and further I do hereby warn the Commander of the Italian Bark *San Joseph*, to whom this notification is delivered, that should he again appear off the said Port of San Juan de Nicaragua on any pretence whatever while the Blockade continues his Vessel will be seized and sent to a Vice-Admiralty Court for adjudication.

‘ In order to prevent as much as possible any loss or inconvenience to the Inhabitants of neighbouring States I beg to call on all Commanders of Ships and Vessels to make known wherever they may go that at present their² is no commercial intercourse between the Port of San Juan de Nicaragua and any other part of the world.

‘ Dated on Board Her Britannic Majesty’s Schooner *Pickle*, at San Juan de Nicaragua, this 30th day of March, 1844.

‘ (signed) JOSEPH A. BAINBRIDGE

‘ (Lieutenant).’³

¹ P. R. O. No. 5542.

² *Sic.*

³ P. R. O. No. 5542.

THE ARGENTINE CONFEDERATION, 1845-50

British Official Notice of Blockade of Buceo.

'It is hereby notified that a strict and rigorous blockade of the port of Buceo was established and maintained by Her Majesty's naval forces on the east coast of South America under the command of Rear-Admiral Inglefield, acting in conjunction with the naval forces of the King of the French, under the command of Rear-Admiral Lainé, on the 1st of August last; but that neutral vessels were, nevertheless, permitted to quit the said port until the 12th day of the same month of August.

'It is also hereby further notified, that a strict and rigorous blockade has been established and maintained by the same British and French naval forces, of all the other parts of the Oriental Republick, occupied by troops under the command of General Oribe: and that all the measures authorized by the Law of Nations, and the respective Treaties between Her Majesty and other Powers, will be adopted and executed with regard to all vessels attempting to violate the said blockade.'¹

British Official Notice of Blockade of Buenos Ayres.

'It is hereby notified that the Right Honourable the Earl of Aberdeen, Her Majesty's Principal Secretary of State for Foreign Affairs, has received dispatches from Mr. Turner, Her Majesty's Chargé d'Affaires at Monte Video, dated the 24th of September last, and from Mr. Ouseley, Her Majesty's Minister Plenipotentiary accredited to the Argentine Republic, dated the 31st day of October last, announcing that a blockade of the ports and coast of the province of Buenos Ayres was established, on the 24th of the said month of September, by the vessels of the British and French squadrons; that the term of fifteen days had been granted for the departure of neutral vessels from the port of Buenos Ayres; and that the Commanders of the blockading forces had been authorized farther to extend that term to the 31st of the said month of October.'²

¹ L. G. October 31, 1845.

² L. G. December 26, 1845.

British Official Notice of Blockade to the Blockaded State.

‘ (Traducción)

‘ El abajo firmado, Encargado de Negocios de S.M.B., tiene el honor de anunciar á S.E. D. Santiago Vazquez, Ministro de Gobierno y Relaciones Exteriores, que en conformidad de una declaración que los Plenipotenciarios de las Potencias Mediadoras dirijieron al Gobierno de Buenos Ayres el 18 del presenti y que le fué entregada el 20, empezáran á bloquear los Puertos y las Costas de la Provincia de Buenos Ayres por las Escuadras Inglesa y Francesa, el dia mañana 24 del corriente.

‘ Se ha concedido el término de quince dias para la salida de las embarcaciones neutrales del puerto de Buenos Ayres ; y el Comandante de la fuerza bloqueadora está autorizado, en caso necesario, para prorrogar aquel término hasta el 24 del próximo Octubre.

‘ El abajo firmado aprovecha esta oportunidad para renovar á S.E. D. Santiago Vazquez las seguridades de su más distinguida consideración.

‘ M. V., Setiembre 23 de 1845.

‘ ADOLFO TURNER.

‘ Á.S.E. el Sr. D. Santiago Vazquez, Ministro de Negocios Estranjeros.’¹

GREECE, 1850

British Notice of Blockade to the Blockaded State.

‘ Athens, January 24, 1850.

‘ SIR,

‘ I am instructed by the Right Honourable Thomas Wyse to inform you that the Commander-in-Chief of Her Majesty’s Naval Forces, acting in obedience to the instructions of Her Britannic Majesty’s Government, and in concert with the Right Honourable Thomas Wyse, Her Britannic Majesty’s Representative, deems it necessary to extend to Greek merchant vessels the prohibition to put to sea, which

¹ Bustamente, *Los cinco errores capitales de la Intervención Anglo-Francesa en el Plata* (Monte Video, 1849), p. 89.

from an anxious desire not to injure Greek commerce, has up to this moment been limited to vessels belonging to the Greek Government. I am therefore to announce to you that no Greek vessel can be allowed to quit a Greek port unless previously chartered to carry a cargo or part of a cargo belonging to foreign merchants. Such vessels will be allowed to put to sea ; but this exception cannot be applied to any Greek vessel chartered by foreign merchants after the present communication.

‘ This measure in no way affects foreign vessels of any description.

‘ I have, &c.

‘ (signed) JOHN GREEN,

‘ Her Britannic Majesty’s Consul.’¹

British Notice of Blockade to Third States.

‘ Athens, January 24, 1850.

‘ SIR,

‘ I am instructed by the Right Honourable Thomas Wyse to inform my colleagues, that the Commander-in-Chief of Her Majesty’s Naval Forces, acting in obedience to the instructions of Her Britannic Majesty’s Government, and in concert with Her Britannic Majesty’s Representative, deems it necessary to extend to Greek merchant vessels the prohibition to put to sea, which from an anxious desire not to injure Greek commerce, has up to this moment been limited to vessels belonging to the Greek Government.

‘ I have, therefore, to announce to you that henceforward the Commander-in-Chief of Her Britannic Majesty’s Naval Forces will not permit any Greek vessel to quit a Greek port. Nevertheless any Greek vessel having been chartered previous to the present communication, to carry a cargo or part of a cargo belonging to foreign merchants, will be allowed to put to sea ; but this exception cannot be applied to any Greek vessel chartered by foreign merchants after the communication of this notice.

¹ B. S. P. 1850, ‘ Further Correspondence respecting the demands made upon the Greek Government ’ (bound in vol. lvi at p. 407), p. 46. Consul Green to the Local Authorities at the Piræus.

'The above measure in no way affects foreign vessels of any description, but it is exclusively confined to vessels under the Greek flag.

'I have, &c.,

'(signed) JOHN GREEN,

'Her Britannic Majesty's Consul.'¹

Further British Notice of Blockade to the Blockaded State.

'(Translation)

'Syra, January $\frac{1}{10}$, 1850.

'M. LE PRÉFET,

'I have received from His Excellency the Minister of Her Britannic Majesty to His Majesty the King of Greece, orders to announce to you that Admiral Sir William Parker has desired the commanders of the British Navy not to allow, from this day forward, any Greek vessel to leave the port of Syra until the demands of the English Government shall have been acceded to by the Hellenic Government.

'Accept, &c.

'(signed) RICHARD WILKINSON.'²

Further British Notice of Blockade to Third States.

'(Translation)

'Syra, January 30, 1850.

'SIR,

'His Excellency Admiral Sir William Parker, commanding Her Britannic Majesty's naval forces, having ordered the commanders of the Royal British Marine not to permit any Greek vessel to sail from a Greek port, I have received orders from His Excellency the Minister of Her Britannic Majesty to His Hellenic Majesty the King of Greece, to inform you that this measure does not in any

¹ B. S. P. 1850, op. cit., pp. 46-7. Consul Green to the consular body at Athens. This circular was sent to the consul-generals and consuls of Russia, France, Rome, Sweden, Sardinia, Belgium, Netherlands, Spain, Austria, Bavaria, Tuscany, the Two Sicilies, and the United States of America: there did not appear to be any Turkish or Prussian consular authority.

² Ibid., p. 101. Consul Wilkinson to the Nomarch of the Cyclades.

way interfere with vessels of other Powers, nor even with such Greek vessels as may have been already chartered by foreign merchants ; but this exemption will not be granted to any Greek ships after the present communication.

‘ All Greek vessels having on board goods belonging partly or wholly to foreign merchants will be permitted to disembark them in Greek ports, the merchant being bound to produce proof of his property therein.

‘ I have, &c.

‘ (signed) RICHARD WILKINSON.’¹

GAETA AND MESSINA, 1860-1

Notice of Blockade to Great Britain.

‘ Naples, October 6, 1860.

‘ It being necessary for us that supplies of artillery, arms and ammunition should be prevented from reaching the citadel of Messina and the fort of Gaeta, the Dictatorial Government has ordered that the above-mentioned places should be placed in a state of effective blockade in accordance with the principles established by the Treaty of Paris of 1856.

‘ He² therefore declares that orders have been given that from eight days from the present date the said blockade should begin and that cruisers of warships² should watch the shores adjacent to Messina and Gaeta to prevent the introduction of war stores, arms and all other articles of war.

‘ The undersigned, &c., hastens to inform His Excellency Mr. Elliot of the above-mentioned resolution for the protection of commerce and avails, &c.

‘ (signed) F. CRISPI.’³

¹ B. S. P. 1850, op. cit., p. 102. Consul Wilkinson to the consular body at Syra.

² *Sic.*

³ B. S. P. 1861, ‘ Further Correspondence relating to the Affairs of Italy presented to the House of Lords by command of Her Majesty in pursuance of their Address dated March 1, 1861,’ p. 15.

Renewed Notice of Blockade to Great Britain.

'It is hereby notified that the Right Honourable the Lord John Russell, Her Majesty's Principal Secretary of State for Foreign Affairs, has received from his Excellency the Marquis d'Azeglio, the Sardinian Minister in London, the following official communication :—

.
(Translation)

'The squadron of His Majesty the King having, with a sufficient number of vessels to render it effective, established the blockade of the fortress of Gaeta, commencing from the 20th of January last, the Undersigned Envoy Extraordinary and Minister Plenipotentiary of His Majesty the King of Sardinia, has the honour officially to inform his Excellency Lord John Russell, Principal Secretary of State for Foreign Affairs of Her Britannick Majesty, thereof.

'In executing the instructions of his Government on this subject, the Undersigned hastens moreover to bring to the knowledge of his Excellency that the declaration of the Congress of Paris, of the 16th of April, 1856, with respect to the interests of Neutral Powers, will be put in practice.

'The Undersigned begs his Excellency to accept the expression of his highest consideration.

'(signed) V. E. D'AZEGLIO.

'London, February 4, 1861.

'23, Park Lane.'¹

FORMOSA, 1884-5

French Official Notice of Blockade to Great Britain.

.
'Foreign Office, October 23, 1884.

'It is hereby notified that the Right Honourable Earl Granville, K.G., Her Majesty's Principal Secretary of State for Foreign Affairs, has this day received an official communication from the French Ambassador at this Court,

¹ B. S. P. 1861, op. cit., p. 22, and *L. G.* February 8, 1861.

announcing that the ports and roadsteads of the North and of the West coasts of the Island of Formosa will be placed in a state of blockade from this day, and that a delay of three days will be given to friendly vessels to complete their cargoes and to quit the places under blockade.

‘It is further notified that a Telegram has also been this day received from Her Majesty’s Ambassador at Paris stating that the following Notice appeared in the *Journal Officiel* of this morning, and that a copy of it had been communicated to His Excellency by the French Minister for Foreign Affairs :—

‘ Notification du Blocus du Littoral de l’Ile Formose.

‘ Nous soussigné, vice-amiral commandant en chef les forces navales françaises dans l’Extrême-Orient, agissant en vertu des pouvoirs qui nous appartiennent, déclarons qu’à partir du 23 Octobre 1884, tous les ports et rades de l’île de Formose compris entre le cap sud ou cap Nan-Sha et la baie de Soo-Au, en passant par l’ouest et le nord, seront tenus en état de blocus effectif par les forces navales sous notre commandement, et que les bâtiments amis auront un délai de trois jours pour achever leur chargement et quitter les lieux bloqués. Il sera procédé contre tout bâtiment qui tenterait de violer le dit blocus, conformément aux lois internationales et aux traités en vigueur.

‘ A bord du cuirassé français *Bayard*, le 20 Octobre, 1884.

‘ Signé : COURBET.

‘ (Translation)

‘ Notification of the Blockade of the Coast of the Island of Formosa.

‘ We, the undersigned, Vice-Admiral Commander-in-Chief of the French Naval Forces in the Far East, acting in virtue of the powers which belong to us, declare, that, commencing on the 23rd of October, 1884, all the ports and roadsteads of the Island of Formosa included between South Cape or Cape Nan-sha and the Soo-au Bay, passing

west and north (the situation of these points being : the first in $21^{\circ} 55'$ north lat. and $118^{\circ} 30'$ long. east of Paris and the second in $24^{\circ} 30'$ north lat. and $119^{\circ} 33'$ long. east of Paris), will be maintained in a state of effective blockade by the naval forces placed under our command, and that friendly ships will be allowed a delay of three days to effect their loading and to leave the blockaded places. Any ship attempting to violate the above-mentioned blockade will be proceeded against in conformity with International law and the treaties in force.

'On board the French ironclad *Bayard*, October 20, 1884.

'(signed) COURBET.'¹

Further French Official Notice to Great Britain.

'It is hereby notified for public information that it has been announced to Her Majesty's Government by the Government of the French Republic that it is their intention to exercise during the continuance of the present hostilities between France and China the rights of belligerents which are recognized by the law of nations, including the right to search neutral vessels on the high seas for contraband of war.'²

GREECE, 1886

British Official Notice of Blockade.

'It is hereby notified that the Earl of Rosebery, Her Majesty's Principal Secretary of State for Foreign Affairs, has received a telegraphic Dispatch from Her Majesty's Chargé d'Affaires at Athens, dated May 8, 1886, reporting that the Representatives of Germany, Austria-Hungary, Great Britain, Italy and Russia delivered on that day to the Greek Minister for Foreign Affairs a Declaration, of which the following is a translation :—

¹ *L. G.* October 24, 1884; *Journal Officiel*, October 23, 1884; B. S. P. 1885, France, No. 1, p. 2.

² *L. G.* February 13, 1885; B. S. P. 1885, France, No. 1, p. 11.

‘ The undersigned, Representatives of Germany, Austria, Great Britain, Italy and Russia, are directed by their respective Governments to make the following communication to the Cabinet of Athens :

‘ The reply of the Cabinet of Athens to the Collective Note of the 26th of April, not being of a nature to satisfy the Powers, the above-mentioned Governments have given orders to the Commanders of their united squadrons to establish a blockade of the Coasts of Greece against all ships under the Greek flag.

‘ This blockade will become effective from the date of the present declaration. It will extend from Cape Malea to Cape Colonna, and from thence to the northern frontier of Greece, including the Island of Euboea, and will also include on the west coast the entrance to the Gulf of Corinth. Any ship under the Greek flag which may endeavour to violate this blockade will render itself liable to detention.’¹

(Signatures follow.)

ZANZIBAR, 1888-9

Declaration of Blockade by British and German Admirals.

‘ In accordance with instructions received from our respective Governments, and in the name of His Highness the Sultan of Zanzibar, we, the Admirals commanding the British and German squadrons, hereby declare a blockade against the importation of munitions of war and the exportation of slaves only, on the continuous line of coast of Zanzibar, including the islands of Mafia and Lamu and the lesser islands adjoining the coast from 10° 28’ south to 2° 10’ south latitude.

‘ The blockade will be in force from noon on the 2nd December, 1888.

‘ (signed) E. R. FREMANTLE, British Rear-Admiral,

‘ Commander in Chief, East Indies Station.

‘ DEINHARD, German Rear-Admiral,

‘ Commanding Flying Squadron.

¹ L. G. May 14, 1886.

' Notice.

' All ships, to whatever nation they may belong, are liable to visit and search ; they should " bring to " and lower their sails immediately on a blank charge being fired. Should they not do so a warning shot will be fired across their bows, after which they will be treated as hostile.

' Vessels engaged in ordinary trade will be allowed to continue their voyage after having been visited.

' Dated at Zanzibar this 29th day of November, 1888.

' (signed) E. R. FREMANTLE.

' DEINHARD.'¹

British Official Notice of Blockade.

' It is hereby notified that the Marquis of Salisbury, K.G., Her Majesty's Principal Secretary of State for Foreign Affairs, has to-day received a Telegram from Colonel Euan-Smith, Her Majesty's Agent and Consul-General in Zanzibar, stating that a Proclamation of Blockade of the continuous line of Continental Coast of the Sultan of Zanzibar, including the Islands of Mafia and Lamu, and the lesser Islands adjoining the Coast from 2° 10' South Latitude to 10° 28' South Latitude, had been issued on the 29th of November, the Blockade to commence at noon of the 2nd of December.'²

German Official Circular to German Representatives Abroad for communication to the States to which they were accredited.

' (Translation)

' Foreign Office, Berlin, 1888.

' The German Settlements established under Treaties with the Sultan on the coasts of the territory of Zanzibar, having been attacked by armed bands of insurgents living in the Sultan's territory, and in the neighbouring territory, under the leadership of slave dealers of the region, the Government of His Majesty the Emperor has thought it necessary to establish a blockade of the coasts in question, and an under-

¹ B. S. P. 1889, Africa, No. 1, p. 12.

² L. G. December 4, 1888.

standing having been come to with the Government of Her Britannic Majesty, the blockade has been declared by the Commanders of the German and the British squadrons in those waters.

‘The Undersigned has the honour to transmit to — the accompanying copy of this Declaration, published in the *Imperial Gazette* of the 4th instant, and to request that the same may be brought to the knowledge of those interested.

‘*Copy enclosed.*

‘*Notification.*

‘*(Translation)*

‘Zanzibar, November 30, 1888.

‘By command of our Governments, and in the name of His Highness the Sultan of Zanzibar, we, the Admirals commanding the German and English squadrons, hereby announce the blockade of the uninterrupted coast of the territory of the Sultan of Zanzibar, including the islands of Mafia, Lamu and other smaller islands near the coast between 10° 28' and 2° 10' of south latitude.

‘The blockade is, however, only directed against the importation of material of war and the exportation of slaves. The blockade will come into force at noon on the 2nd instant.

(signed) DEINHARD.

‘FREMANTLE.’¹

Portuguese Official Notice of Blockade.

‘The Minister for Marine and Colonial Affairs to the Governor-General of Mozambique.

‘*(Telegraphic)*

‘Lisbon, December 6, 1888. 4.40 p.m.

‘Article 1. The import, export, re-export and sale of arms and all munitions of war are prohibited, provisionally, in the districts of Cape Delgado, Mozambique, Angoche, Quilimane, Sofala and Inhambane.

¹ B. S. P. Africa, No. 10 (1888), p. 102. Letter, Count Hatzfeldt to the Marquess of Salisbury, enclosing circular.

‘ Article 2. All arms and munitions of war now in deposit in the Custom-Houses of the above-mentioned districts may be exported or re-exported to any ports excepting those of East Africa, national or foreign, north of Lorenzo Marques.

‘ Article 3. All the ports, bays and creeks of the East African coast as well as of the adjacent islands, between the mouth of the Rovuma in 10° 28’ south latitude, and the south entrance to Pomba Bay in 12° 58’ south latitude, are hereby declared to be in a state of blockade by Portuguese vessels of war, so far as relates to the import of arms and munitions of war and the export of slaves.

‘ Article 4. This decree is to be enforced in the districts of Mozambique at once, and in the remaining districts of the province immediately notice of it is received from the seat of Government, from whence it is to be dispatched by the most rapid means.

‘ Article 5. All legislation to the contrary is revoked.

‘ (signed) THE MINISTER.’¹

Further Portuguese Official Notice of Blockade.

‘ Lisbon, December 17, 1888. 3.50 p.m.

‘ Decree of the 22nd extends to Lorenzo Marques the provisions of the Decree of the 6th respecting the trade in arms.’²

Italian Official Notice of Blockade.

‘ Ministry for Foreign Affairs.

‘ It is hereby notified that on the 5th inst. a telegram was received at this office from Signor Cechi, His Majesty’s Consul and His Majesty’s Envoy Extraordinary, announcing that the Commander of His Majesty’s ship *Dogali* had that day declared a blockade of the East Coast of the Sultanate of Zanzibar, between Cape Delgado and Witu, including the

¹ B. S. P. Africa, No. 1 (1889), p. 16. Extract from *Boletim Official* of December 8, 1888. Also B. S. P. Africa, No. 10 (1888), pp. 103-4. Extract from the *Diario do Governo* of December 7, 1888, from Lisbon.

² B. S. P. 1889, Africa, No. 1, p. 35. Extract from *Boletim Official* of December 29, 1888.

islands of Mafia and Lamu and the smaller islands adjacent to the coast, from 2° 10' to 10° 28' of south latitude.

' The effects of the blockade are limited to the prohibition of the trade in slaves and arms and munitions of war.

' The blockade declared by the German and English squadrons was put in effect by the squadrons in question at Midday on the 2nd December, and by His Majesty's ship *Dogali* immediately after the declaration thereof by the Commander of that ship.

' Rome, December 19, 1888.'¹

Sultan's Official Proclamation of Blockade.

' (Translation)

' Proclamation from His Highness the Sultan Syed Khalifa, Sultan of Zanzibar, to all the Walis, Dewans, Akeedas, the Elders and others of His Highness' subjects.

' Let it be known to all men that we have prohibited every one from trading in powder, arms, and munitions of war on account of the disturbances which have arisen on the mainland; furthermore we also prohibited [*sic*] the Slave Trade; no one of our subjects may deal in slaves or munitions of war.

' Now we declare positively that if any one is found transgressing this our Proclamation, his property will be confiscated and he will be punished and imprisoned for six months and will be deported from our dominions. He will receive such rigorous punishment that he will not be able to bear it.

' The Governments of Great Britain and Germany have now arranged, with our consent, to establish a naval blockade on our coast, in order that the above objects may be more fully attained, and in order to break the power of the insurgents and restore our authority.

' Be it known to all men that the blockade is done with our full consent and sanction; and that it will be directed against vessels carrying flags of all nations, but only against

¹ B. S. P. 1889, Africa, No. 1, p. 18. Extract from the *Official Gazette* of the Kingdom of Italy of December 19, 1888.

the Trade in Slaves, and arms and munitions of war. Ordinary commerce will in no way be interfered with.

‘[Seal of His Highness the Sultan of Zanzibar].’¹

Further Declaration of the British and German Admirals.

Notice.

‘By authority of His Highness the Sultan the Admirals commanding the British and German squadrons are empowered to board and search every vessel or boat belonging to any of His Highness’ subjects in the territorial waters of Zanzibar and Pemba for the purpose of putting a stop to the transport of arms, slaves, and munitions of war that are intended for trade, and their power to search Arab dhows has been extended by permission of the French Government to dhows flying the French flag.

‘2. By territorial waters of Zanzibar and Pemba we understand :—

‘(a) The channel of Zanzibar which is limited to the northward by the latitude of 5° 40’ south, and to the southward by a line ENE. from Ras-Kankadya.

‘The channel of Zanzibar is looked upon as a territorial water, as the coasts on both sides belong to the same Sovereign and one is already under blockade.

‘In other parts of Zanzibar islands and as regards the Island of Pemba, which is already under search and visitation, the territorial waters are limited to five miles (gunshot of modern guns) from the shore, as well as bays and inlets.

‘As regards Zanzibar, the search in territorial waters will commence from noon of the 4th March, 1889.

‘(signed) E. R. FREMANTLE,

‘Rear-Admiral and Commander-in-Chief British Squadron East Indies Station.

‘DEINHARD,

‘Rear-Admiral, Commanding the German Flying Squadron.’²

‘March 1, 1889.’

¹ B. S. P. Africa, No. 1, 1889, p. 9.

² Ibid., p. 65.

SIAM, 1893

First Declaration of Blockade.

‘ On Board the *Forfait*, July 26, 1893.

‘ We the undersigned ‘Capitaine de Vaisseau’, Senior Officer of the men-of-war now employed in the Gulf of Siam, acting under the orders of the Rear-Admiral, Commander-in-Chief of the Eastern Squadron, and in virtue of the powers vested in him, hereby declare that on the 26th July, 1893, at 5 p.m., all the ports in the roadsteads on the coast and the Siamese islands between Point Chulai and Point Lem Krabang to the northward (these points, the first 13° 3′ north and 97° 43′ east Paris meridian ; the second 13° 5′ north, 98° 31′ east Paris meridian) will be effectively blockaded by the naval forces under our orders, and the friendly ships will have three days’ grace to leave the blockaded ports.

‘ Proceedings will be taken against all vessels attempting to violate the blockade, in accordance with International Law and the Treaties in force.

‘ Given on board the cruiser *Forfait* anchored off the bar at Bangkok.

‘ (signed) A. RECULOUX.’¹

Second Declaration of Blockade.

‘ We the undersigned Rear-Admiral Humann, Commander-in-Chief of the French naval forces in the Extreme East, in view of the state of reprisals existing between France and Siam, acting in virtue of the powers that pertain to us, declare :—

‘ That from the 29th July, 1893, the coasts and ports of Siam comprised :

‘ 1. Between Point Chulai, latitude 13° 2′ north, longitude 97° 43′ east, and Point Lem Krabang, latitude 13° 5′ north, longitude 98° 31′ east ;

‘ 2. Between the south point of Ko-samit Island, latitude

¹ B. S. P. 1894, Siam, No. 1, p. 159, as there translated.

12° 31' north, longitude 99° 6' east, and Point Lem Ling, latitude 12° 11' north, longitude 93° 58' east ;

will be held in a state of effective blockade by the naval forces placed under our command, and that friendly ships or neutrals will have a delay of three days to complete their loading and quit the blockaded places.

‘ The limits of the blockade will extend —

‘ 1. For the first blockaded zone, to a line joining Point Chulai (before described) to Point Lem Krabang (before described).

‘ 2. For the second blockaded zone, to a line joining the point of Ko-samit Island (before described) to Point Lem Ling (before described).

‘ Proceedings will be taken against all ships which attempt to violate the said blockade, conformably to International Law and to Treaties in force with neutral powers.

‘ On board the *Triomphante*, French armoured cruizer, at Koh-si-Chang, the 29th July, 1893.

‘ (signed) HUMANN.’¹

‘ From the orders of my Government.

‘ The blockade arrangements which concern days of departure are equally applicable to ships of war as to merchant ships . . . the provisional act of notification made by Captain Reculoux is proved to be annulled, in fact, by this that I have the honour to succeed it with.’²

French Notice to Third States.

‘ Rear-Admiral Humann, Commander-in-Chief of the naval division in the Far East, to the Chevalier Keun de Sloogerwoerd, Consul-General of Holland, in charge of French interests at Bangkok.

‘ M. LE CHEVALIER,

‘ With a view to reconcile as far as possible the exigencies of the present situation with my strong desire to

¹ B. S. P. 1894, Siam, No. 1, p. 168.

² Ibid., p. 167. Extract from the letter covering the previous notice of Rear-Admiral Humann to Captain MacLeod.

be agreeable to the Consular and Diplomatic Corps, and also not to interrupt entirely the relations of European commerce at Bangkok with the outside world, I have ordered the cruizers which are guarding the line of blockade to allow mail steamers from Europe to approach as near as the anchorage of Koh-si-Chang, where they will have to hand over their mails to the French Minister, who is willing to undertake to have them transmitted to you by the quickest means.

‘ I should be grateful, M. le Chevalier, if you would be so good as to bring this decision to the knowledge of your colleagues, and accept, &c.

‘ (signed) HUMANN.

‘ *La Triomphante* at Koh-si-Chang,

‘ August 1st, 1893.’¹

CRETE, 1897

British Official Notice of Blockade.

‘ It is hereby notified that the Marquess of Salisbury, K.G., Her Majesty’s Principal Secretary of State for Foreign Affairs, has received a Telegraphic Dispatch from Rear-Admiral Harris, Commanding Her Majesty’s Naval Forces in Cretan Waters, addressed to the Lords Commissioners of the Admiralty, and dated the 18th of March, announcing that the Admirals in command of the British, Austro-Hungarian, French, German, Italian and Russian Naval Forces have decided to put the Island of Crete in a state of Blockade, commencing 21st of March, 8 a.m.

‘ The Blockade will be general for all ships under the Greek flag.

‘ Ships of the Six Powers or Neutral Powers may enter into the ports occupied by the Powers and land their merchandize, but only if it is not for the Greek troops or the interior of the Island. These ships may be visited by the ships of the International Fleets.

¹ B. S. P. 1894, Siam, No. 1, p. 174.

‘The limits of the Blockade are comprised between 23° 24’ and 26° 30’ longitude East of Greenwich and 35° 48’ and 34° 45’ North latitude.’¹

VENEZUELA, 1902-3

British Official Notice of Blockade.

‘It is hereby notified that as the United States of Venezuela have failed to comply with the demands of His Majesty’s Government, a blockade by His Majesty’s naval forces of the ports of La Guayra, Carenero, Guanta, Cumana, Carupano and the mouths of the Orinoco is declared and such blockade will be effectively maintained from and after the 20th day of December subject to an allowance of the following days of grace: For vessels sailing before the date of this notification from West Indian ports and from ports on the East coasts of the Continent of America ten days for steamers and twenty days for sailing vessels; from all other ports twenty days for steamers and forty days for sailing vessels. For vessels lying in ports now declared to be blockaded, fifteen days. Vessels which attempt to violate the blockade will render themselves liable to all measures authorized by the law of nations and the respective treaties between His Majesty and the different neutral powers.’²

¹ L. G. March 20, 1897.

² L. G. December 20, 1902.

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